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April	14, 1995 - Issue 15: Through	March	31, 1995
July	14, 1995 - Issue 28: Through	June	30, 1995
October	13, 1995 - Issue 41: Through	September	30, 1995
January	12, 1996 - Issue 2: Through	December	31, 1995 (Annual)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Merit and Fitness

2) Code Citation: 80 Ill. Adm. Code 302

3) Section number: Proposed Action:

302.30 Amendment

4) Statutory Authority: Implementing and authorized by the Personnel Code [20 ILCS 415/8b.7].

5) A Complete Description of the Subjects and Issues Involved:

Section 302.30. The proposed amendment is intended to conform the existing rule with provisions in current law regarding veterans preference.

6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days of the date of publication to:

Stephen W. Seiple
720 Stratton Office Building
Springfield, IL 62706
(217)782-9669

12) Initial Regulatory Flexibility Analysis: Does not apply to small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The need for the rulemaking did not come to the Department's attention until after the agenda was filed.

The full text of the Proposed Amendments begins on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND POSITION CLASSIFICATIONS

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NOTICE OF PROPOSED AMENDMENT

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AUTHORITY: Implementing and authorized by the Personnel Code [20 ILCS 415].

SOURCE: Filed May 29, 1975; amended at 2 Ill. Reg. 33, p. 24, effective September 1, 1978; amended at 3 Ill. Reg. 1, p. 63, effective January 1, 1979; amended at 3 Ill. Reg. 22, p. 78, effective June 1, 1979; emergency amendment at 3 Ill. Reg. 48, p. 188, effective January 1, 1980, for a maximum of 150 days; emergency amendment at 4 Ill. Reg. 1, p. 76, effective January 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 11, p. 67, effective March 1, 1980; amended at 4 Ill. Reg. 15, p. 216, effective March 31, 1980; amended at 4 Ill. Reg. 22, p. 227, effective June 1, 1980; amended at 5 Ill. Reg. 8029, effective August 1, 1981; amended at 7 Ill. Reg. 654, effective January 5, 1983; codified at 7 Ill. Reg. 13198; amended at 8 Ill. Reg. 7788, effective May 23, 1984; emergency amendment at 9 Ill. Reg. 241, effective January 1, 1985,

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for a maximum of 150 days; amended at 9 Ill. Reg. 7907, effective May 15, 1985; amended at 10 Ill. Reg. 13940, effective September 1, 1986; amended at 12 Ill. Reg. 5634, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 16214, effective September 23, 1988, for a maximum of 150 days; emergency expired February 20, 1989; amended at 13 Ill. Reg. 3722, effective March 13, 1989; amended at 13 Ill. Reg. 10820, effective June 23, 1989; amended at 13 Ill. Reg. 12970, effective August 1, 1989; amended at 15 Ill. Reg. 17974, effective November 27, 1991; amended at 16 Ill. Reg. 8375, effective May 21, 1992; emergency amendment at 16 Ill. Reg. 11645, effective July 6, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 13489, effective August 19, 1992; amended at 16 Ill. Reg. 17607, effective November 6, 1992; amended at 17 Ill. Reg. 3169, effective March 1, 1993; amended at 18 Ill. Reg. 1992, effective January 25, 1994; amended at 18 Ill. Reg. 17183, effective November 21, 1994; amended at 19 Ill. Reg. 8145, effective June 7, 1995; amended at 19 Ill. Reg. _____, effective _____.

SUBPART A: APPLICATION AND EXAMINATION

Section 302.30 Veterans Preference

- a) Appropriate preference in entrance examinations shall be granted to qualified persons who have been members of the armed forces of the United States or to qualified persons who, while citizens of the United States, were members of the armed forces of allies of the United States in time of hostilities with a foreign country (as set forth in Section 8b7 of the Personnel Code) and to certain other persons as set forth in this Section.
- b) To be eligible, applicant must have received discharge under honorable conditions and served under one or more of the following conditions:
- 1) Served, for at least six months, in the armed forces of the United States, the Illinois National Guard, or any reserve component of the armed forces of the United States, or, while a U.S. citizen, must have been a member of the armed forces of an ally of the U.S. in time of hostilities with a foreign country; or
 - 2) Discharged on the grounds of hardship; or
 - 3) Released from active duty because of a service connected disability; or
 - 4) Served for the duration of hostilities regardless of the length of engagement.
- c) Preference will be in the form of points added to the final grades of persons who otherwise qualify and are entitled to appear on the list of those eligible for appointments. Preference in entrance examinations will be granted as follows:
- 1) Ten points shall be added to the entrance examination grade for such veteran eligibles currently holding proof of a service connected disability from the United States Veterans Administration or from such allied country for service connected

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

- disabilities or if the veteran is a purple heart recipient.
- 2) Five points shall be added to the entrance examination grade for such veteran eligibles who have served during a time of hostilities with a foreign country; who meet the qualifications set forth in subsection (b); but who do not qualify for 10 points under subsection (c)(1).
- 3) A person not eligible for a preference under subsection (c)(1) or (c)(2) is qualified for a preference of 3 points if the person has served in the armed forces of the United States, the Illinois National Guard, or any reserve component of the armed forces of the United States and the person:
- A) served for at least 6 months and has been discharged under honorable conditions; or
 - B) has been discharged on the grounds of hardship; or
 - C) was released from active duty because of a service connected disability.
- An active member of the National Guard or a reserve component of the armed forces of the United States is eligible for the preference if the member meets the service requirements of this subsection (c)(3).
- d) If category ratings are used, the veteran eligibles in each category shall be preferred for appointment before the non-veteran eligibles in the same category.
- e) A surviving unremarried spouse of a veteran who suffered a service connected death or the spouse of a veteran who suffered a service connected disability that prevents the veteran from qualifying for civil service employment shall be entitled to the same preference to which the veteran would have been entitled under this Section.
- f) A preference shall also be given to the following individuals: 10 points for one parent of an unmarried veteran who suffered a service connected death or a service connected disability that prevents the veteran from qualifying for civil service employment. The first parent to receive a civil service appointment shall be the parent entitled to the preference.
- g) It is the responsibility of each agency head to obtain documentary verification that persons seeking preference under this Section are entitled to such preference. Copies of verifying documents shall be submitted to the Department of Central Management Services as required.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Volunteered Location(s) Procedures for Selecting a Site for the Development of a Low-Level Radioactive Waste Disposal Facility
- 2) Code Citation: 32 Ill. Adm. Code 610
- 3) Section Number:
 610.10 New Section
 610.20 New Section
 610.30 New Section
 610.40 New Section
- 4) Statutory Authority: Implementing and authorized by Section 10.2 of the Illinois Low-Level Radioactive Waste Management Act (420 ILCS 10/10.2).
- 5) A Complete Description of the Subjects and Issues Involved: The Illinois Low-Level Radioactive Waste Management Act (the Management Act), amended in August 1993, created the Illinois Low-Level Radioactive Waste Task Group (Task Group) and gave the Task Group the responsibility for developing criteria for selecting a site for a low-level radioactive waste disposal facility in Illinois. The Management Act states a clear preference for volunteered sites (Section 10.2(c)) and directs the Scientific Surveys to "evaluate any location of at least 640 acres that is volunteered by a land owner or unit of local government to determine whether the volunteered location appears likely to meet the criteria". The Department of Nuclear Safety has been requested by the Task Group to establish a process for volunteering locations for consideration. The Department is therefore proposing this rule to establish the policies and procedures to be followed by the Director of the Department of Nuclear Safety when accepting a proposal from a land owner or unit of local government for volunteering lands for consideration as a site for the development of a low-level radioactive waste disposal facility.
- 6) Will this proposed rule replace an emergency amendment currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rule contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.
- 11) Time, Place and Manner in which interested persons may comment on this

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. The Department will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Thomas J. Carlisle
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 785-9884 (voice)
(217) 782-6133 (TDD)

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations effected: The Department does not believe that this rule will have an effect on any small businesses, small municipalities or not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking does not require any reporting or bookkeeping in order to achieve compliance with this Part. Section 610.30 sets out the procedures for volunteering a location for consideration.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the two most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Rules begin on the next page:

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

TITLE 32: ENERGY

CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY

SUBCHAPTER d: LOW LEVEL RADIOACTIVE WASTE/TRANSPORTATION

PART 610

VOLUNTEERED LOCATION(S) PROCEDURES FOR SELECTING A SITE FOR THE DEVELOPMENT OF A LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY

Section

610.10 Purpose and Scope

610.20 Definitions

610.30 Procedures for Volunteering a Location for Consideration

610.40 Timelines for Submitting Proposals for Volunteering a Location for Consideration

AUTHORITY: Implementing and authorized by Section 10.2 of the Illinois Low-Level Radioactive Waste Management Act (420 ILCS 10/10.2).

SOURCE: Adopted at 19 Ill. Reg. _____, effective _____.

Section 610.10 Purpose and Scope

- a) The purpose of this Part is to establish the policies and procedures to be followed by the Director of the Department of Nuclear Safety (Director) when accepting a proposal from a land owner or unit of local government for volunteering lands for consideration as a site for the development of a low-level radioactive waste disposal facility.
- b) The Illinois Low-Level Radioactive Waste Management Act (the Act) [420 ILCS 20] directs the Illinois State Geological and Water Surveys (Scientific Surveys) to screen the State of Illinois and identify at least 10 locations, each of at least 640 acres, that appear likely to meet the criteria established by the Low-Level Radioactive Waste Task Group (Task Group).
- c) In addition to screening the State of Illinois, the Illinois State Geological and Water Surveys are also directed to evaluate any location of at least 640 acres that is volunteered by a land owner or unit of local government to determine whether the volunteered location appears likely to meet the established criteria.
- d) The Act does not specify to whom the locations should be volunteered; however, the Task Group has requested the Department of Nuclear Safety (Department) to establish a process by which volunteered locations could be considered.
- e) In keeping with the spirit of preferring volunteered locations, it is the intent of the Department to allow ample opportunity for any land

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

owner or unit of local government to submit for consideration a proposal for a volunteered location for evaluation.

- f) Land owners or units of local government may contact the Chief of the Division of Low-Level Radioactive Waste Management, Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois 62704, for further information regarding the procedures described in this Part.

Section 610.20 Definitions

As used in this Part, the following definitions shall apply:

"Contractor" means the contractor selected by the Department under Section 5 of the Act to develop the low-level radioactive waste disposal facility.

"Land owner" means a person in whom title, ownership, or dominion is vested regarding a portion of real property. A holder of a mere option to purchase is not considered to be a land owner.

"Person" means an individual, corporation, business enterprise or other legal entity either public or private and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity.

"Option to purchase" means a privilege existing in one person for which that person has tendered payment, giving the person the right, if the person so chooses, to buy land from the owner of that realty at any time within an agreed period for a specified, fixed price.

"Unit of local government" means counties, municipalities, townships, special districts, and units designated as units of local government by law that exercise limited governmental powers or powers in respect to limited government subjects, but does not include school districts.

"Volunteered location" means lands consisting of, at a minimum, 640 acres to be considered as a proposed site for the development of a low-level radioactive waste disposal facility.

Section 610.30 Procedures for Volunteering a Location for Consideration

Any land owner or unit of local government may propose that a location of at least 640 acres be considered as a volunteered location for the proposed development of a low-level radioactive waste disposal facility. Land owners owning contiguous properties may jointly volunteer a location to meet the 640-acre minimum size requirement. Units of local government are not required to own the location being volunteered.

- a) A volunteered location proposal for consideration shall be in writing

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

and addressed to the Director, Illinois Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois 62704.

- b) The volunteered location proposal shall provide a description of the location being volunteered (e.g., plat survey containing the legal description of the property).
- c) The proposals from land owners shall provide a description of the current land ownership.
- d) The Director shall provide a copy of all volunteered location proposals to the Scientific Surveys for inclusion in the screening process or to the contractor after the locations have been identified dependent on the timeframe identified in Section 610.40 of this Part.

Section 610.40 Timelines for Submitting Proposals for Volunteering a Location for Consideration

- a) For land to be considered during the Scientific Surveys' screening process, locations must be volunteered no sooner than the formal adoption and publication of site-selection criteria by the Task Group and no later than 45 days after the adoption of the criteria.
- b) After the Scientific Surveys have identified ten or more locations, land owners or units of local governments may volunteer locations for consideration that are within the boundaries of the locations identified by the Scientific Surveys.
- c) Land owners or units of local government will be allowed to volunteer locations as provided in subsection (b) of this Section, but no later than 3 months after the contractor begins to evaluate the locations for site selection.
- d) The contractor will consider locations volunteered under subsection (c) of this Section in addition to the previously volunteered locations that remain after the Scientific Surveys' screening process is completed.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Solid Waste Disposal: General Provisions

2) Code Citation: 35 Ill. Adm. Code 810

3) Section Numbers: Proposed Action:

810.101 Amended

810.102 Amended

810.103 Amended

810.104 Amended

4) Statutory Authority: 415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1 and 27

5) A Complete Description of the Subjects and Issues Involved: This rulemaking proposes amendments to 35 Ill. Adm. Code 810.101 and 810.102 to reflect the addition of the new Part 816 in the scope and applicability of those Sections, and amends 35 Ill. Adm. Code 810.103 and 810.104 by adding definitions and incorporating additional references utilized by new Part 816. This rulemaking is authorized by PCB Docket R96-1.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? Yes. The proposal incorporates at 35 Ill. Adm. Code 810.104 "Method D5102, Standard Test Method for Unconfined Compressive Strength of Cohesive Soils" and U.S. Army Corps of Engineers "Engineering Manual 1110-2-1906 Appendix VII, Falling-Head Permeability Test with Permeameter Cylinder."

9) Are there any other proposed rulemakings pending on this part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Send written comments concerning R96-1 within 45 days of publication in the *Illinois Register* to:

Dorothy Gunn
Clerk of the Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, IL 60601
(312) 814-6931

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Questions may be directed to Charles M. Feinen at the Illinois Pollution Control Board at (312) 814-3463.

12) Initial Regulatory Flexibility Analysis: These proposed amendments and proposed rule establish alternative methods of liner and cap material for new utility waste landfills.

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The Board adopted the associated Adjusted Standard Opinion and Order which directed a rulemaking docket to be opened on July 7, 1995 and this rulemaking was not otherwise anticipated.

The full text of the Proposed Amendment begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER I: SOLID WASTE AND SPECIAL WASTE HAULING

PART 810

SOLID WASTE DISPOSAL: GENERAL PROVISIONS

Section

810.101 Scope and Applicability

810.102 Severability

810.103 Definitions

810.104 Incorporations by Reference

AUTHORITY: Implementing Sections 5, 21, 21.1, 22, 22.17 and 28.1 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1 and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15838, effective September 18, 1990; amended in R93-10 at 18 Ill. Reg. 1268, effective January 13, 1994; amended in R90-26 at 18 Ill. Reg. 12457, effective August 1, 1994; amended in R96-1 at 19 Ill. Reg. _____, effective _____.

Section 810.101 Scope and Applicability

This Part applies to all solid waste disposal facilities regulated pursuant to 35 Ill. Adm. Code 811 through 815--and 817. This Part does not apply to hazardous waste management facilities regulated pursuant to 35 Ill. Adm. Code 700 through 750.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 810.102 Severability

If any provision of this Part or of 35 Ill. Adm. Code 811 through 817 815 or its application to any person or under any circumstances is adjudged invalid, such adjudication shall not affect the validity of this Part or of 35 Ill. Adm. Code 811 through 817 815 as a whole or of any portion not adjudged invalid.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 810.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part

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shall be the same as that applied to the same words or terms in the Environmental Protection Act (Act) (111-Rev-Stat-1991-ch-111-1/27-pars-1991-etr-seq) [415 ILCS 5]:

"Act" means the Environmental Protection Act (111-Rev-Stat-1991-ch-111-1/27-pars-1991-etr-seq) [415 ILCS 5].

"Admixtures" are chemicals added to earth materials to improve for a specific application the physical or chemical properties of the earth materials. Admixtures include, but are not limited to: lime, cement, bentonite and sodium silicate.

"Agency" is the environmental protection agency established by the Environmental Protection Act. (Section 3.08 of the Act)

"Applicant" means the person, submitting an application to the Agency for a permit for a solid waste disposal facility.

"Aquifer" means saturated (with groundwater) soils and geologic materials which are sufficiently permeable to readily yield economically useful quantities of water to wells, springs, or streams under ordinary hydraulic gradients and whose boundaries can be identified and mapped from hydrogeologic data. (Section 3 of the Illinois Groundwater Protection Act (111-Rev-Stat-1991-ch-111-1/27-pars-1991-etr-seq) [415 ILCS 5/3])

"Bedrock" means the solid rock formation immediately underlying any loose superficial material such as soil, alluvium or glacial drift.

"Beneficially usable waste" means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents that exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

"Board" is the Pollution Control Board established by the Act. (Section 3.04 of the Act)

"Borrow area" means an area from which earthen material is excavated for the purpose of constructing daily cover, final cover, a liner, a gas venting system, roadways or berms.

"Chemical waste" means a non-putrescible solid whose characteristics are such that any contaminated leachate is expected to be formed through chemical or physical processes, rather than biological processes, and no gas is expected to be formed as a result.

"Coal combustion power generating facilities" means establishments

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classified by Standard Industrial Classification (SIC) codes 4911 and 4931 which generate electricity by combusting coal.

"Contaminated leachate" means any leachate whose constituent violate the standards of 35 Ill. Adm. Code 811.202.

"Design Period" means that length of time determined by the sum of the operating life of the solid waste landfill facility plus the postclosure care period necessary to stabilize the waste in the units.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water or into any well such that solid waste or any constituent of the solid waste may enter the environment by being emitted into the air or discharged into any waters, including groundwater. (Section 3.08 of the Act) If the solid waste is accumulated and not confined or contained to prevent its entry into the environment, or there is no certain plan for its disposal elsewhere, such accumulation shall constitute disposal.

"Disturbed areas" means those areas within a facility that have been physically altered during waste disposal operations or during the construction of any part of the facility.

"Documentation" means items, in any tangible form, whether directly legible or legible with the aid of any machine or device, including but not limited to affidavits, certificates, deeds, leases, contracts or other binding agreements, licenses, permits, photographs, audio or video recordings, maps, geographic surveys, chemical and mathematical formulas or equations, mathematical and statistical calculations and assumptions, research papers, technical reports, technical designs and design drawings, stocks, bonds and financial records, that are used to support facts or hypotheses.

"Earth liners" means structures constructed from naturally occurring soil material that has been compacted to achieve a low permeability.

"Existing facility" or "Existing unit" means a facility or unit which is not defined in this Section as a new facility or a new unit.

"Existing MSWLF Unit" means any municipal solid waste landfill unit that has received household waste before October 9, 1993. (Section 3.87 of the Act)

"Facility" means a site and all equipment and fixtures on a site used to treat, store or dispose of solid or special wastes. A facility consists of an entire solid or special waste treatment, storage or disposal operation. All structures used in connection with or to

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facilitate the waste disposal operation shall be considered a part of the facility. A facility may include, but is not limited to, one or more solid waste disposal units, buildings, treatment systems, processing and storage operations, and monitoring stations.

"Field capacity" means that maximum moisture content of a waste, under field conditions of temperature and pressure, above which moisture is released by gravity drainage.

"Foundry sand" means pure sand or a mixture of sand and any additives necessary for use of the sand in the foundry process, but does not include such foundry process by-products as air pollution control dust or refractories.

"Gas collection system" means a system of wells, trenches, pipes and other related ancillary structures such as manholes, compressor housing, and monitoring installations that collect and transports the gas produced in a putrescible waste disposal unit to one or more gas processing points. The flow of gas through such a system may be produced by naturally occurring gas pressure gradients or may be aided by an induced draft generated by mechanical means.

"Gas condensate" means the liquid formed as a landfill gas is cooled or compressed.

"Gas venting system" means a system of wells, trenches, pipes and other related structures that vents the gas produced in a putrescible waste disposal unit to the atmosphere.

"Geomembranes" means manufactured membrane liners and barriers of low permeability used to control the migration of fluids or gases.

"Geotextiles" are permeable manufactured materials used for purposes which include, but are not limited to, strengthening soil, providing a filter to prevent clogging of drains, collecting and draining liquids and gases beneath the ground surface.

"Groundwater" means underground water which occurs within the saturated zone and within geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Section 3 of the Illinois Groundwater Protection Act)

"Household Waste" means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). (Section 3.89 of the Act)

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"Hydraulic barriers" means structures designed to prevent or control the seepage of water. Hydraulic barriers include, but are not limited to cutoff walls, slurry walls, grout curtains and liners.

"Inert waste" means any solid waste that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a contaminated leachate, as determined in accordance with Section 811.202(b). Such inert wastes shall include only non-biodegradable and non-putrescible solid wastes. Inert wastes may include, but are not limited to, bricks, masonry and concrete (cured for 60 days or more).

"Iron slag" means slag.

"Land application unit" means an area where wastes are agronomically spread over or disked into land or otherwise applied so as to become incorporated into the soil surface. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a land application unit is not a landfill; however, other Parts of 35 Ill. Adm. Code: Chapter I may apply, and may include the permitting requirements of 35 Ill. Adm. Code 309.

"Landfill" means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, and which is not a land application unit, a surface impoundment or an underground injection well. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, landfills include waste piles, as defined in this Section.

"Lateral Expansion" means a horizontal expansion of the actual waste boundaries of an existing MSWLF unit occurring on or after October 9, 1993. For purposes of this Section, a horizontal expansion is any area where solid waste is placed for the first time directly upon the bottom liner of the unit, excluding side slopes on or after October 9, 1993. (Section 3.88 of the Act)

"Leachate" means liquid that has been or is in direct contact with a solid waste.

"Lift" means an accumulation of waste which is compacted into a unit and over which cover is placed.

"Low risk waste" means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents that exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

"Malodor" means an odor caused by one or more contaminant emissions

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into the atmosphere from a facility that is in sufficient quantities and of such characteristics and duration as to be described as malodorous and which may be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property. (Section 3.02 of the Act (defining "air pollution"))

"Municipal Solid Waste Landfill Unit" or "MSWLF Unit" means a contiguous area of land or an excavation that receives household waste, and that is not a land application, surface impoundment, injection well, or any pile of noncontainerized accumulations of solid, nonflowing waste that is used for treatment or storage. A MSWLF unit may also receive other types of RCRA Subtitle D wastes, such as commercial solid waste, nonhazardous sludge, small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned or operated. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion. A sanitary landfill is subject to regulation as a MSWLF if it receives household waste. (Section 3.85 of the Act)

"National Pollutant Discharge Elimination System" or "NPDES" means the program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits and imposing and enforcing pretreatment requirements under the Clean Water Act (33 U.S.C. 1251 et seq.), Section 12(f) of the Environmental Protection Act and 35 Ill. Adm. Code 309.Subpart A and 310.

"NPDES permit" means a permit issued under the NPDES program.

"New facility" or "New unit" means a solid waste landfill facility or a unit at a facility, if one or more of the following conditions apply:

It is a landfill or unit exempt from permit requirements pursuant to Section 21(d) of the Act that has not yet accepted any waste as of September 18, 1990;

It is a landfill or unit not exempt from permit requirements pursuant to Section 21(d) of the Act that has no development or operating permit issued by the Agency pursuant to 35 Ill. Adm. Code 807 as of September 18, 1990; or

It is a landfill with a unit whose maximum design capacity or lateral extent is increased after September 18, 1990.

BOARD NOTE: A new unit located in an existing facility shall be considered a unit subject to 35 Ill. Adm. Code 814, which references applicable requirements of 35 Ill. Adm. Code 811.

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"New MSWLF Unit" means any municipal solid waste landfill unit that has received household waste on or after October 9, 1993, for the first time. (Section 3.86 of the Act)

"One hundred (100) year flood plain" means any land area which is subject to a one percent or greater chance of flooding in a given year from any source.

"One hundred (100) year, 24 hour precipitation event" means a precipitation event of a 24 hour duration with a probable recurrence interval of once in 100 years.

"Operator" means the person responsible for the operation and maintenance of a solid waste disposal facility.

"Owner" means a person who has an interest, directly or indirectly, in land, including a leasehold interest, on which a person operates and maintains a solid waste disposal facility. The "owner" is the "operator" if there is no other person who is operating and maintaining a solid waste disposal facility.

"Perched watertable" means an elevated water table above a discontinuous saturated lens, resting on a low permeability (such as clay) layer within a high permeability (such as sand) formation.

"Permit area" means the entire horizontal and vertical region occupied by a permitted solid waste disposal facility.

"Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns. (Section 3.26 of the Act)

"Potentially usable waste" means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents that exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

"Poz-O-Tec materials" means materials produced by a stabilization process patented by Conversion Systems, Inc. utilizing flue gas desulfurization (FGD) sludges and ash produced by coal combustion power generation facilities as raw materials.

"Poz-O-Tec monofill" means a landfill in which solely Poz-O-Tec materials are placed for disposal.

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"Professional engineer" means a person who has registered and obtained a seal pursuant to "the Professional Engineering Practice Act of 1989" (1991-Rev.-Stat.-1991-7-CH-1117-PAR-5201-ET-SEQ-) [225 ILCS 325].

"Professional land surveyor" means a person who has received a certificate of registration and a seal pursuant to "the Illinois Professional Land Surveyor Surveyors Act of 1989" (1991-Rev.-Stat.-1991-7-CH-1117-PAR-3251-ET-SEQ-) [225 ILCS 330].

"Putrescible waste" means a solid waste that contains organic matter capable of being decomposed by microorganisms so as to cause a malodor, gases, or other offensive conditions, or which is capable of providing food for birds and vectors. Putrescible wastes may form a contaminated leachate from microbiological degradation, chemical processes, and physical processes. Putrescible waste includes, but is not limited to, garbage, offal, dead animals, general household waste, and commercial waste. All solid wastes which do not meet the definitions of inert or chemical wastes shall be considered putrescible wastes.

"Publicly owned treatment works" or "POTW" means a treatment works that is owned by the State of Illinois or a unit of local government. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastewater. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the unit of local government which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

"Recharge zone" means an area through which water can enter an aquifer.

"Resource Conservation Recovery Act" or "RCRA" means the Resource Conservation and Recovery Act of 1976 (P.L. 94-580 Codified as 42 USC. Sec. 6901 et seq.) as amended. (Section 3.90 of the Act)

"Responsible charge," when used to refer to a person, means that the person is normally present at a waste disposal site; directs the day-to-day overall operation at the site; and either is the owner or operator or is employed by or under contract with the owner or operator to assure that the day-to-day operations at the site are carried out in compliance with any Part of 35 Ill. Adm. Code: Chapter I governing operations at waste disposal sites.

"Runoff" means water resulting from precipitation that flows overland before it enters a defined stream channel, any portion of such overland flow that infiltrates into the ground before it reaches the stream channel, and any precipitation that falls directly into a

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stream channel.

"Salvaging" means the return of waste materials to use, under the supervision of the landfill operator, so long as the activity is confined to an area remote from the operating face of the landfill, it does not interfere with or otherwise delay the operations of the landfill, and it results in the removal of all materials for salvaging from the landfill site daily or separates them by type and stores them in a manner that does not create a nuisance, harbor vectors or cause an unsightly appearance.

"Scavenging" means the removal of materials from a solid waste management facility or unit which is not salvaging.

"Seismic Slope Safety Factor" means the ratio between the resisting forces or moments in a slope and the driving forces or moments in a slope and the driving forces or moments that may cause a massive slope failure during an earthquake or other seismic event such as an explosion.

"Settlement" means subsidence caused by waste loading, changes in groundwater level, chemical changes within the soil and adjacent operations involving excavation.

"Shredding" means the mechanical reduction in particle sizes of solid waste. Putrescible waste is considered shredded if 90 percent of the waste by dry weight passes a 3 inch sieve.

"Significant Modification" means a modification to an approved permit issued by the Agency in accordance with Section 39 of the Act and 35 Ill. Adm. Code 813 that is required when one or more of the following changes, considered significant when that change measured by one or more parameters whose values lie outside the expected operating range of values for that parameter as specified in the permit, are planned, occur or will occur:

An increase in the capacity of the waste disposal unit over the permitted capacity;

Any change in the placement of daily, intermediate or final cover;

A decrease in performance, efficiency or longevity of the liner system;

A decrease in efficiency or performance of the leachate collection system;

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A change in configuration, performance, or efficiency of the leachate management system;

A change in the final disposition of treated effluent or in the quality of the discharge from the leachate treatment or pretreatment system;

Installation of a gas management system, or a decrease in the efficiency or performance of an existing gas management system;

A change in the performance or operation of the surface water control system;

A decrease in the quality or quantity of data from any environmental monitoring system;

A change in the applicable background concentrations or the maximum allowable predicted concentrations;

A change in the design or configuration of the regraded area after development or after final closure;

A change in the amount or type of postclosure financial assurance;

Any change in the permit boundary;

A change in the postclosure land use of the property;

A remedial action necessary to protect groundwater;

Transfer of the permit to a new operator;

Operating authorization is being sought to place into service a structure constructed pursuant to a construction quality assurance program; or

A change in any requirement set forth as a special condition in the permit.

"Slag" means the fused agglomerate which separates in the iron and steel production and floats on the surface of the molten metal.

"Sole source aquifer" means those aquifers designated pursuant to Section 1424(e) of the Safe Drinking Water Act of 1974 (42 U.S.C. 300h-3).

"Solid Waste" means a waste that is defined in this Section as an

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inert waste, as a putrescible waste, as a chemical waste or as a special waste, and which is not also defined as a hazardous waste pursuant to 35 Ill. Adm. Code 721.

"Special Waste" means any industrial process waste, pollution control waste or hazardous waste, except as determined pursuant to Section 22.9 of the Act and 35 Ill. Adm. Code 808. (Section 3.45 of the Act)

"Static Safety Factor" means the ratio between resisting forces or moments in a slope and the driving forces or moments that may cause a massive slope failure.

"Steel slag" means slag.

"Surface impoundment" means a natural topographic depression, a man-made excavation, or a diked area into which flowing wastes, such as liquid wastes or wastes containing free liquids, are placed. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a surface impoundment is not a landfill. Other Parts of 35 Ill. Adm. Code: Chapter I may apply, including the permitting requirements of 35 Ill. Adm. Code 309.

"Twenty-five (25) year, 24 hour precipitation event" means a precipitation event of 24 hour duration with a probable recurrence interval of once in 25 years.

"Uppermost aquifer" means the first geologic formation above and below the bottom elevation of a constructed liner or wastes, where no liner is present, which is an aquifer, and includes any lower aquifer that is hydraulically connected with this aquifer within the facility's permit area.

"Unit" means a contiguous area used for solid waste disposal.

"Unit of local government" means a unit of local government, as defined by Article 7, Section 1 of the Illinois Constitution. A unit of local government may include, but is not limited to, a municipality, a county, or a sanitary district.

"Waste pile" means an area on which noncontainerized masses of solid, non flowing wastes are placed for disposal. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a waste pile is a landfill, unless the operator can demonstrate that the wastes are not accumulated over time for disposal. At a minimum, such demonstration shall include photographs, records or other observable or discernable information, maintained on a yearly basis, that show that within the preceding year the waste has been removed for utilization or disposed elsewhere.

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"Waste stabilization" means any chemical, physical or thermal treatment of waste, either alone or in combination with biological processes, which results in a reduction of microorganisms, including viruses, and the potential for putrefaction.

"Working face" means any part of a landfill where waste is being disposed.

"Zone of Attenuation" means the three dimensional region formed by excluding the volume occupied by the waste placement from the smaller of the volumes resulting from vertical planes drawn to the bottom of the uppermost aquifer at the property boundary or 100 feet from the edge of one or more adjacent units.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 810.104 Incorporations by Reference

a) The Board incorporates the following material by reference:

- 1) Code of Federal Regulations:
40 CFR 141.40 (1988).
40 CFR 258-Appendix II (1992).
- 2) American Institute of Certified Public Accountants, 1211 Avenue of the Americans, New York NY 10036:
Auditing Standards--Current Text, August 1, 1990 Edition.
- 3) ASTM. American Society for Testing and Materials, 1976 Race Street, Philadelphia PA 19103, (215) 299-5585:
Method D2234-76, Test Method for Collection of Gross Samples of Coal.
Method D3987-85, Standard Test Method for Shake Extraction of Solid Waste with Water.
Method D5102, Standard Test Method for Unconfined Compressive Strength of Cohesive Soils.
- 4) U.S. Government Printing Office, Washington, D.C. 20402, Ph: (202) 783-3238:
Test Methods for Evaluating Solid Waste, Physical/Chemical methods, EPA Publication SW-846 (Third Edition, 1986 as amended by Update I) (November, 1990)
- 5) U.S. Army Corps of Engineers, Publication Department, 2803 52nd Ave., Hyattsville, Maryland 20781, (301) 394-0081:
Engineering Manual 1110-2-1906 Appendix VII, Falling-Head Permeability Test with Permeometer Cylinder.

b) This incorporation includes no later amendments or editions.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not for profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Providers of services under the former Healthy Moms/Healthy Kids Program

B) Reporting, bookkeeping or other procedures required for compliance:

None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the proposed amendments is identical to the emergency amendments that begin on page _____.

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1) Heading of the Part: Specialized Health Care Delivery Systems

2) Code Citation: 89 Ill. Adm. Code 146

3) Section Numbers: Proposed Action:

146.100 New Section

146.105 New Section

146.110 New Section

146.115 New Section

146.125 New Section

146.130 New Section

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) A Complete Description of the Subjects and Issues Involved: These proposed rules allow for the participation of Ambulatory Surgical Treatment Centers (ASTCs) in the Medicaid program. An ASTC is a facility devoted primarily to the performance of surgical procedures on an outpatient basis. Such facilities do not provide beds or other accommodations for the overnight stay of patients. After a period of recovery, patients are discharged in an ambulatory condition. When complications occur, patients are transferred to a hospital for necessary care. Because freestanding surgical centers maintain low expenses, they are able to provide quality health care at anticipated lower costs compared to hospitals.

The federal government began approval for Medicare to pay surgical costs in ASTCs in 1982. In Illinois, the Ambulatory Surgical Treatment Center Act was enacted in 1973. These proposed rules describe conditions that an ASTC must meet in order to participate in the Medicaid program. An ASTC must be licensed by the Department of Public Health and certified according to Medicare standards and face annual inspections to maintain Medicare approval. Out-of-state ASTCs must be licensed by their state agency and certified by a national accrediting body. ASTCs will be subject to utilization review as deemed appropriate by the Department. They will be required to maintain a contractual relationship, including a transfer and referral plan, with a hospital having reasonable proximity as described in the amendments.

Based upon advice from the State Medicaid Advisory Committee, ASTC enrollment will be allowed to provide Hospital Ambulatory Reform (HAR) Group I and Group III procedures. It is not known how many surgeries will be shifted from hospital outpatient units to ASTC settings. For those surgeries performed in ASTCs, the cost is expected to be approximately 75 percent of the usual hospital outpatient rate for Group III surgeries and 75 percent of the median Group I outpatient surgery rate.

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- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed rules do not affect units of local government.

11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Ave. E., 3rd Floor
Springfield, Illinois 62762
(Phone: (217)524-3215)

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Ambulatory Surgical Treatment Centers

B) Reporting, bookkeeping or other procedures required for compliance: None

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C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF PUBLIC AID

SUBCHAPTER d: MEDICAL PROGRAMS

PART 146

SPECIALIZED HEALTH CARE DELIVERY SYSTEMS

SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

Section	
146.100	General Description
146.105	Definitions
146.110	Participation Requirements
146.115	Records and Data Reporting Requirements
146.125	Covered Ambulatory Surgical Treatment Center Services
146.130	Reimbursement for Services

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Old Part repealed at 14 Ill. Reg. 13800, effective August 15, 1990;
New Part adopted at 19 Ill. Reg. _____, effective _____.

SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

Section 146.100 General Description

This Part sets forth the conditions that an ambulatory surgical treatment center must meet in order to participate in the Medicaid Program.

Section 146.105 Definitions

For purposes of this Part, the following terms shall be defined as follows:

- a) "Ambulatory Surgical Treatment Center (ASTC)." Any distinct entity that operates primarily for the purpose of providing surgical services to patients not requiring hospitalization. Such facilities shall not provide beds or other accommodations for the overnight stay of patients. Individual patients shall be discharged in an ambulatory condition without danger to the continued well-being of the patients or shall be transferred to a hospital. This provision shall include any place which meets the definition of an ambulatory surgical treatment center under the regulations of the Federal Health Care Financing Administration (42 CFR 416). The term "ambulatory surgical treatment center" does not include:

- 1) Any institution, place, building or agency required to be

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licensed pursuant to the Hospital Licensing Act [210 ILCS 85];

- 2) Any person or institution required to be licensed pursuant to the Nursing Home Care Act [210 ILCS 45];
- 3) Hospitals or ambulatory surgical treatment centers maintained by the State or any department or agency thereof, where such department or agency has authority under law to establish and enforce standards for the hospitals or ambulatory surgical treatment centers under its management and control;
- 4) Hospitals or ambulatory surgical treatment centers maintained by the federal government or agencies thereof; or
- 5) Any place, agency, clinic or practice, public or private, whether organized for profit or not, devoted exclusively to the performance of dental or oral surgical procedures.
- b) "Ambulatory Surgical Treatment Center Services." Facility services that are furnished in an ambulatory surgical treatment center.
- c) "Department." The Illinois Department of Public Aid.
- d) "Facility Services." Services that are furnished in connection with covered surgical procedures performed in an ambulatory surgical treatment center.

Section 146.110 Participation Requirements

To participate in the Medicaid Program, an ambulatory surgical treatment center (ASTC) must, in addition to any other Department requirements:

- a) Be licensed by the Illinois Department of Public Health pursuant to 77 Ill. Adm. Code 205.
- b) In the case of an out-of-state ASTC, be licensed by their state agency or accredited by a national accrediting body.
- c) Meet the requirements in 42 CFR 416.
- d) Maintain a contractual relationship, including a transfer and referral plan with a hospital.
 - 1) In nonrural areas, the contracting hospital must be within 15 minutes.
 - 2) In rural areas, the contracting hospital must be within 30 minutes.
- 3) Have an effective procedure for the immediate transfer to a hospital of patients requiring emergency medical care beyond the capabilities of the ASTC.
- e) Ensure that a qualified physician shall be present at the facility at all times during the operative and postoperative period for all patients.
- f) Must perform surgical procedures in a safe manner using qualified physicians who have been granted clinical privileges by the governing body of the ASTC. Staff physicians shall have admitting privileges in a licensed hospital and also meet the criteria in subsections (d)(1) and (d)(2) above.

Section 146.115 Records and Data Reporting Requirements

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a) In addition to any other Department record requirements, the ambulatory surgical treatment center (ASTC) must maintain complete, comprehensive and accurate medical records to ensure adequate patient care that includes, but is not limited to, the following:

- 1) Patient identification;
- 2) Significant medical history and results of physical examination;
- 3) Preoperative diagnostic studies (entered before surgery), if performed;
- 4) Findings and techniques of the operation, including a pathologist's report on all tissues removed during surgery, except those exempted by the governing body;
- 5) Any allergies and abnormal drug reactions;
- 6) Entries related to anesthesia administration;
- 7) Documentation of properly executed informed patient consent;
- 8) Discharge diagnosis; and
- 9) Medications ordered and administered.

b) ASTC medical records must contain the dates of service and the name of the medical practitioner seeing the patient at the time of each center visit.

c) Medical records for Medicaid patients must be made available to the Department or its designated representative in the performance of utilization review.

d) The ASTC agrees to furnish to the Department, if requested, information necessary to establish payment rates in the form and manner that the Department requires.

e) Services provided in an ASTC may be subject to prepayment and postpayment review to assess medical care, coding validation and quality of care.

f) ASTCs are responsible for assuring that services provided to Medicaid clients meet or exceed the appropriate standards for care. Any provider that is under any corrective action plan or plans while enrolled with the Department, by any licensing, certification or accreditation authority, including, but not limited to, the Illinois Department of Public Health, the Federal Department of Health and Human Services, a peer review organization, or the Joint Commission for Accreditation of Health Care Organizations, must report the request for such corrective action plans to the Department. Information submitted will remain confidential.

Section 146.125 Covered Ambulatory Surgical Treatment Center Services

a) The Department of Public Aid will reimburse ambulatory surgical treatment centers (ASTCs) for facility services in accordance with covered Hospital Ambulatory Reform (HAR) Procedure Codes from Group I and Group III of the Hospital Ambulatory Care Listing, as defined in 89 Ill. Adm. Code 148.140(b)(1). The Department may exclude from coverage in an ASTC any procedure identified as only appropriate for coverage in a hospital setting.

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1) Group I procedures are high level technology surgeries that consume many facility resources and are costly to deliver.

2) Group III procedures are other surgical, specialized cardiac and diagnostic procedures.

3) The Hospital Ambulatory Care List is updated periodically. As technology changes, so do the procedures that fall into the categories. In addition, annual changes in the ICD-9-CM procedure codes and their meanings necessitate annual changes to the Hospital Ambulatory Care List.

b) Facility services furnished by an ASTC in connection with covered HAR codes Group I and Group III include, but are not limited to:

- 1) Nursing, technician and related services;
 - 2) Use of the ASTC facilities;
 - 3) Supplies (such as drugs, biologicals (e.g., blood)), surgical dressings, splints, casts and appliances, and equipment directly related to the provision of surgical procedures;
 - 4) Diagnostic or therapeutic services or items directly related to the provision of a surgical procedure;
 - 5) Administrative, recordkeeping, and housekeeping items and services; and
 - 6) Materials for anesthesia.
- c) Facility services do not include items and services for which payment may be made under other provisions of this Section such as physicians' services, laboratory, x-ray or diagnostic procedures performed by independent facilities or practitioners on the day of surgery (other than those directly related to performance of the surgical procedure), prosthetic devices, ambulance services, leg, arm, back and neck braces, artificial limbs, and durable medical equipment for use in the patient's home. In addition, they do not include anesthetic services.

Section 146.130 Reimbursement for Services

a) Reimbursement levels shall be at the lower of the ASTC's usual and customary charge to the public or the Department's Statewide maximum reimbursement screen.

b) With respect to Group I procedures described in Section 143.125(a)(1), reimbursement, an all-inclusive rate for facility services shall be calculated at 75 percent of the Statewide median payment for Group I procedures in a hospital outpatient setting.

c) With respect to the Group III procedures described in Section 143.125(a)(2), reimbursement, an all-inclusive rate for facility services shall be at 75 percent of the Group III nonteaching hospital rate.

d) Laboratory, x-ray, or prescription services or professional physicians' services, in connection with a covered surgical procedure, must be billed by the providers rendering such services. If the ASTC provides the lab or x-ray service, then:

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- 1) Separate billing is NOT allowed if provided on the day of surgery; or
- 2) Separate billing IS allowed if provided on other than the day of surgery.
- e) The providers described in subsection (d) above must meet all applicable license, enrollment and reimbursement conditions of the Department of Public Aid and the Department of Public Health (see the appropriate administrative rules for the license and reimbursement conditions for these services).

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- 1) Heading of the Part: Illinois Veterans' Homes Code
- 2) Code Citation: 77 Ill. Adm. Code 340
- 3) Section Numbers: Proposed Action:
340.1000 Amendments
340.1580 Amendments
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) A Complete Description of the Subjects and Issues Involved: These rules are being amended in response to P.A. 88-413 (effective August 20, 1993), which amended the Nursing Home Care Act in regard to the use of physical and chemical restraints.

Changes to Section 340.1000 (Definitions) include: the addition of a definition for the term Adaptive Equipment; amendment of the definition of Convenience; deletion of citations to the Illinois Revised Statutes; deletion of the definition of Restraint of a Resident.

Section 340.1580 (Restraints) is amended to clarify devices and practices that are considered to be restraints.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of the notice in the *Illinois Register*.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules, within 45 days after publication of this *Illinois Register*, by writing to:

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Ms. Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-6187

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The existing rule contains the same language implementing P.A. 88-413 as the amendments to Parts 300, 330, 350 and 390 that were proposed on July 29, 1994. However, the amendments to Parts 300, 330, 350 and 390 were reworded and repropoed in response to an Objection from JCAR. Part 340 is now being amended to match the proposed language in Parts 300, 330, 350 and 390.

The full text of the Proposed Amendment begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES
PART 340
ILLINOIS VETERANS' HOMES CODE

SUBPART A: GENERAL PROVISIONS

Section	
340.1000	Definitions
340.1010	Incorporated and Referenced Materials
340.1110	General Requirements
340.1115	Federal Veterans' Regulations
340.1120	Application for License
340.1130	Criteria for Adverse Licensure Actions
340.1140	Denial of Initial License
340.1150	Revocation or Denial of Renewal of License
340.1160	Inspections, Surveys, Evaluations, and Consultations
340.1170	Presentation of Findings by the Department
340.1190	Ownership Disclosure
340.1200	Monitor and Receivership
340.1210	Determination of a Violation
340.1220	Determination of the Level of a Violation
340.1230	Plans of Correction and Reports of Correction
340.1240	Calculation of Penalties
340.1245	Conditions for Assessment of Penalties
340.1250	Reduction or Waiver of Penalties
340.1260	Waivers

SUBPART B: POLICIES AND FACILITY RECORDS

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340.1300	Facility Policies
340.1310	Admission and Discharge Policies
340.1320	Disaster Preparedness
340.1330	Serious Incidents and Accidents
340.1335	Infection Control
340.1340	Facility Record Requirements
340.1350	Personnel Policies
340.1360	Initial Health Evaluation for Employees
340.1370	Administrator
340.1375	Personnel Requirements

SUBPART C: RESIDENT RIGHTS

Section	
340.1400	

Implementation of Resident Rights and Facility Responsibilities

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Contract Between Resident and Facility
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Abuse and Neglect
Communication and Visitation
Resident's Funds
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SUBPART D: HEALTH SERVICES

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Medical Care Policies
Medical, Nursing and Restorative Services
Communicable Disease Policies
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Physician Services
Dental Programs
Life-Sustaining Treatments
Obstetrical and Gynecological Care
Nursing Personnel
Personal Care
Restraints
Nonemergency Use of Physical Restraints
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Unnecessary, Psychotropic, and Antipsychotic Drugs
Medication Administration
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SUBPART E: MEDICATION ADMINISTRATION SERVICES

Section

340.1650
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Medication Policies and Procedures
Conformance with Physician's Orders
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SUBPART F: RESIDENT LIVING SERVICES

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SUBPART G: RESIDENT RECORDS

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Section
340.1800
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Resident Record Requirements
Content of Medical Record
Records Pertaining to Resident's Property
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SUBPART H: FOOD SERVICE

Section

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Food Service Staff
Diet Orders
Adequacy of Diet and Meal Pattern
Therapeutic Diets
Menu Planning
Food Preparation and Service
Kitchen Equipment, Utensils and Supplies

SUBPART I: PHYSICAL PLANT SERVICES,
FURNISHINGS, EQUIPMENT AND SUPPLIES

Section

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Maintenance
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Housekeeping
Laundry Services
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Equipment and Supplies
Disaster Preparedness Parameters--Relative Humidity and Temperature

TABLE A

Guidelines for the Use of Various Drugs

TABLE B

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rule adopted at 18 Ill. Reg. 10391, effective June 21, 1994, for a maximum of 150 days; emergency rule expired November 18, 1994; adopted at 19 Ill. Reg. 5679, effective April 3, 1995; amended at 19 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 340.1000 Definitions

The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

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Abuse - any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)

Abuse means:

Physical abuse refers to the infliction of injury on a resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.

Access - the right to:

Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act - as used in this Part, the Nursing Home Care Act (210 ILCS 45).

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Activity Program - a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Equipment - a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 340.1580 as a physical restraint.

Adequate - enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning - a notice to a facility issued by the Department under Section 340.1220 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a Type A or Type B violation.

Administrator - the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate - a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate - means:

With respect to a partnership, each partner thereof.

With respect to a corporation, each officer, director and stockholder thereof.

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

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Aide - any person providing direct personal care, training or habilitation services to residents.

Applicant - any person making application for a license. (Section 1-107 of the Act)

Appropriate - term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment - the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist - a person who is certified or is eligible for a certificate of clinical competence in audiology granted by the American Speech and Hearing Association under its requirements in effect on the publication of this provision or meets the educational requirements for certification, and is in the process of accumulating the supervised experience required for certification.

Autoclave - an apparatus for sterilizing by superheated steam under pressure.

Certification for Title XVIII and XIX - the issuance of a document by the Department to the Department of Health and Human Services or the Department of Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse - ~~is~~ a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint - any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act, ~~see PrA-88-419-effective-August-30-1993~~)

Continuing Care Contract - a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract - a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

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Convenience - the use of any restraint ~~action taken~~ by the facility to control resident behavior or maintain a resident, that is not in the resident's best interest, and with less use of the facility's efforts and resources ~~or expense~~ than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 340.1580 of this Part.

Corporal Punishment - painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident - failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist - any person licensed ~~by the State of Illinois~~ to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act ~~111-Rev-Stat-1991-ch-117-par-2301-et-seq~~ [225 ILCS 25].

Department - as used in this Part means the Illinois Department of Public Health.

Developmental Disability - means a severe, chronic disability of a person which:

is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

is manifested before the person attains age 22;

is likely to continue indefinitely;

results in substantial functional limitations in 3 or more of the following areas of major life activity:

self-care,

receptive and expressive language,

learning,

mobility,

self-direction,

capacity for independent living, and

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economic self-sufficiency; and

reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801.1 of the Act)

Dietetic Service Supervisor - a person who:

is a qualified dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in paragraphs (2), (3) or (4) of this definition.

Dietitian - a person who:

is eligible for registration by the American Dietetic Association; or

has a baccalaureate degree with major studies in food and nutrition, dietetics, and food service management, has one year of supervisory experience in the dietetic service of a health care institution, and participates annually in continuing dietetic education.

Direct Supervision - work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director - the Director of Public Health or his designee. (Section

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1-110 of the Act)

Director of Nursing Service - the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge - the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline - any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part - an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency - a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Existing Long-Term Care Facility - any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility or long-term care facility - A private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code (44-Rev-Stat-1981-CH-347-pars-5-21001-et-seq-and-5-22001-et-seq-) [55 ICS 5], or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVII and Title XIX of the Federal Social Security Act (42 U.S.C.A. 1395 et seq. and 1936 et seq.). A "facility" may consist of more than one building as long as the buildings are on the same tract or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

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A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care and treatment of human illness through the maintenance and operation as organized facilities thereof, which is required to be licensed under the Hospital Licensing Act (1991-Rev.-Stat.-1991-CH-111-1-27-Par-142-et-seq.) [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 (191-Rev.-Stat.-1991-CH-237-Par-1211-et-seq.) [225 ILCS 10];

Any "Community Living Facility" as defined in the Community Living Facilities Licensing Act (111-Rev.-Stat.-1991-CH-111-1-27-Par-4101-et-seq.) [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act (111-Rev.-Stat.-1991-CH-91-1-27-Par-621-et-seq.) [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Mental Health and Developmental Disabilities as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act (111-Rev.-Stat.-1991-CH-91-1-27-Par-1701-et-seq.) [210 ILCS 135]; or

Any Supportive Residence licensed under the Supportive Residences Licensing Act (111-Rev.-Stat.-1991-CH-111-1-27-Par-9001-et-seq.) [210 ILCS 65]. (Section 1-113 of the Act)

Financial Resources - having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time - means on duty a minimum of 36 hours, four days per week.

Goal - an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in

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establishing specific, short-term objectives directed toward its attainment.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian - a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 (111-Rev.-Stat.-1991-CH-110-1-27-Par-1-1-et-seq.) [755 ILCS 5]. (Section 1-114 of the Act)

Hospitalization - the care and treatment of a person in a hospital as an in-patient.

Illinois Veterans' Home - a facility owned but not operated by the Illinois Department of Veterans' Affairs.

Interdisciplinary Team - a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. The Interdisciplinary Team includes at least the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and care givers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator - a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act (111-Rev.-Stat.-1991-CH-111-1-27-Par-3651-et-seq.) [225 ILCS 70].

Licensed Practical Nurse - a person with a valid Illinois license to practice as a practical nurse.

Licensee - the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract - a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance - food, shelter, and laundry services. (Section 1-116 of

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the Act)

Medical Record Practitioner - a person who: is eligible for certification as a registered record administrator (RRA) or an accredited record technician (ART), by the American Medical Record Association under its requirements; or is a graduate of a school of medical record science that is accredited jointly by the American Medical Association and the American Medical Record Association.

Misappropriation of Property - using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Monitor - a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect - a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act)

Neglect means: the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

the alleged failure causing injury or deterioration is ongoing or repetitious; or

a resident required medical treatment as a result of the alleged failure; or

the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility - any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be

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granted.

Nurse - a registered nurse or a licensed practical nurse as defined in the Illinois Nursing Act of 1987 (1117-Rev-Stat--1991-7-CH--1117-PARS-3591-et-seq.) [225 ILCS 65]. (Section 1-118 of the Act)

Nursing Care - a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Objective - an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) - Na person who is registered with the State of Illinois as an occupational therapist under the Illinois Occupational Therapy Practice Act (1117-Rev-Stat--1991-7-CH--1117-PARS-3781-et-seq.) [225 ILCS 75].

Occupational Therapy Assistant - a person who is registered with the State of Illinois as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act (1117-Rev-Stat--1991-7-CH--1117-PARS-3781-et-seq.) [225 ILCS 75].

Operator - the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury - occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight - general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

Owner - the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all

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Liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person - any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

Personal Care - assistance with meals, dressing, movement, bathing, or other personal needs, or maintenance, or general supervision and oversight of the physical and mental well being of an individual, who, is incapable of maintaining a private, independent residence or who is incapable of managing his person whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered - a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 (~~Ill-Rev-Stat-1991-ch-117-pars-412-et-seq~~) [225 ILCS 85].

Physical Restraint - any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act, see P.A. 88-413, effective August 20, 1993)

Physical Therapist Assistant - a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist - a person who is registered as a physical therapist under the Illinois Physical Therapy Act (~~Ill-Rev-Stat-1991-ch-117-pars-425-et-seq~~) [225 ILCS 90].

Physician - any person licensed by the State of Illinois to practice medicine in all its branches as provided in the Medical Practice Act of 1987 (~~Ill-Rev-Stat-1991-ch-117-pars-400-i-et-seq~~) [225 ILCS 60].

Probationary License - an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist - a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist - a person who is licensed by the State of Illinois to

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practice clinical psychology under the Clinical Psychologist Licensing Act (~~Ill-Rev-Stat-1991-ch-117-pars-531-et-seq~~) [225 ILCS 15].

Qualified Professional - a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

Reasonable visiting hours - any time between the hours of 10 a.m. and 8 p.m. daily. (Section 1-121 of the Act)

Registered Nurse - a person with a valid Illinois license to practice as a registered professional nurse under the Illinois Nursing Act of 1987.

Repeat violation - for purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Resident - person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director - the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative - a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care - a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Restraint of a Resident --- use of a physical or chemical restraint

Sanitization - the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of

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steam, hot water, or chemicals.

Satisfactory - same as adequate.

Seclusion - the retention of a resident alone in a room with a door which the resident cannot open.

Self Preservation - the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

Social Worker, Qualified - a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act (111-Rev-Stat-1991-7-chr-1117-pars-7-6951-et seq.) [225 ILCS 20].

State Fire Marshal - the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization - the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a corporation - any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

Student Intern - means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

an academic credit requirement in a high school or undergraduate institution, or

immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Failure - the failure to meet requirements other than a variance from the strict and literal performance, which results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 340.1130(b)(1).

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Sufficient - same as adequate.

Supervision - authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Unless otherwise stated in this Part, the supervisor must be on the premises if the person does not meet assistant level (two-year training program) qualifications specified in these definitions.

Therapeutic Recreation Specialist - a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out - removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

Title XVIII - Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX - Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer - a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Universal Progress Notes - a common record with periodic narrative documentation by all persons involved in resident care.

Valid License - a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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SUBPART D: HEALTH SERVICES

Section 340.1580 Restraints

- a) The facility shall have written policies controlling the use of physical restraints, including but not limited to leg restraints, arm restraints, hand mitts, soft ties or vests, wheelchair safety bars and lap trays, and all facility practices that meet the definition of a restraint. Such practices shall include, but not be limited to: tucking in a sheet so tightly that a bed-bound resident cannot move; bed rails used to keep a resident from getting out of bed; chairs that prevent rising; or placing a resident who uses a wheelchair so close to a wall that the wall prevents the resident from rising. Adaptive equipment is not considered a restraint. Wrist bands or devices on clothing that trigger electronic alarms to warn staff that a resident is leaving a room do not, in and of themselves, restrict freedom of movement and should not be considered as physical restraints. The policies shall be followed in the operation of the facility and shall comply with the Act and this Part. These policies shall be developed by the medical advisory committee or the advisory physician with participation by nursing and administrative personnel.
- b) No restraints with locks shall be used.
- c) Physical restraints shall not be used on a resident for the purposes of discipline or convenience.
- d) The use of chemical restraints is prohibited.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 350
- 3) Section Numbers:
- | | |
|------------|-------------|
| 350.330 | Amendments |
| 350.1080 | New Section |
| 350.1082 | New Section |
| 350.1084 | New Section |
| 350.1086 | New Section |
| 350.1220 | Amendments |
| 350.1420 | Amendments |
| Appendix E | New Section |
- Proposed Action:
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) A Complete Description of the Subjects and Issues Involved:

Changes to Section 350.330 (Definitions) include: the addition of definitions for the terms Adaptive Equipment; Chemical Restraint; Convenience; Discipline; and Physical Restraint; the deletion of definitions for the terms Restraint of a Resident; and Safety Device. These changes are in response to Public Act 88-413 (effective August 20, 1993).

Section 350.1080 (Restraints) is being added in response to P.A. 88-413, which extensively amended the Nursing Home Care Act in regard to the use of physical and chemical restraints and drug treatment. The Act requires the Department, by rule, to designate certain devices as restraints and to adopt the standards for unnecessary drugs contained in the federal Interpretive Guidelines. Section 350.1080 requires the facility to have policies controlling the use of restraints; prohibits the use of restraints with locks; states that physical restraints shall not be used on a resident for the purposes of discipline or convenience.

Section 350.1082 is being added to set forth requirements for the nonemergency use of restraints. These include provisions for the use of physical restraints; consent of the resident, the resident's guardian, or other authorized representative; authorization of the use of restraints for a specific period of time; application of restraints by trained staff; care planning for progressive removal of restraints or progressive use of less restrictive means; periodic release of restraints and provision of care; and prohibition of the use of any form of seclusion.

Section 350.1084 is added to address the emergency use of restraints. The rule defines "emergency care"; sets forth requirements for documentation

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Interested persons may present their comments concerning these rules, within 45 days after this issue of the *Illinois Register*, by writing to:

Ms. Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217)782-6187

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Intermediate care facilities for the developmentally disabled

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: Professional skills necessary to comply with existing requirements in this Part

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: Amendments implementing P.A. 88-413 were originally included in a rulemaking that was proposed on July 29, 1994. In response to a JCAR objection, those provisions were deleted from the rulemaking when it was adopted on July 29, 1995. These amendments differ from the July 29, 1994 proposal in that changes have been made in response to issues raised by JCAR.

The full text of the Proposed Amendment begins on the next page:

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of the emergency use of a restraint in the resident record; includes procedures for physician's orders and care of the resident; references to other provisions of the rules that must be followed in emergency use of restraints.

Section 350.1086 is a new Section entitled "Unnecessary, Psychotropic and Antipsychotic Drugs." The rule sets forth the circumstances in which the use of a drug would be "unnecessary"; defines the terms "duplicative drug therapy," "psychotropic medication," and "antipsychotic drug"; and includes provisions for informed consent, documentation, and dose reductions and behavior interventions.

Section 350.1220 (Physician Services) is being amended to delete requirements concerning the use of seclusion and restraints that are no longer needed with the addition of Section 350.1082. In addition, two parenthetical provisions that are not rules are being deleted.

Section 350.1420 (Conformance with Physician's Orders) is being amended to add a reference to Section 350.Appendix E.

Section 350.Appendix E is added to include, as required by P.A. 88-413, the standards for unnecessary drugs contained in the interpretive guidelines issued by the U.S. Department of Health and Human Services for the purpose of administering Titles 18 and 19 of the Social Security Act.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of the notice in the *Illinois Register*.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 350

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

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SUBPART G: MEDICATIONS

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 350.1410 Medication Policies and Procedures
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 350.1610 Resident Record Requirements
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 350.2980 Treatment and Personal Care
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FOR THE DEVELOPMENTALLY DISABLED OF 16 BEDS OR LESS

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350.3920 Stairways, Vertical Openings and Doorways
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SUBPART Q: DAY CARE PROGRAMS

Section
 350.4210 Day Care in Long-Term Care Facilities

APPENDIX A Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
 APPENDIX B Federal Requirements Regarding Residents' Rights
 APPENDIX C Seismic Zone Map
 APPENDIX D Forms for Day Care in Long-Term Care Facilities
 APPENDIX E Guidelines for the Use of Various Drugs
 TABLE A Sound Transmission Limitations in New Intermediate Care Facilities for the Developmentally Disabled

TABLE B Pressure Relationships and Ventilation Rate of Certain Areas for the New Intermediate Care Facilities for the Developmentally Disabled

TABLE C Construction Types and Sprinkler Requirements for Existing Intermediate Care Facilities for the Developmentally Disabled
 TABLE D Food Service Sanitation Rules and Regulations, 77 Ill. Adm. Code 750, 1983 Applicable for New Intermediate Care Facilities for the Developmentally Disabled at Sixteen (16) Beds or Less

TABLE E Construction Types and Sprinkler Requirements for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less

TABLE F Disaster Preparedness Parameters - Relative Humidity and Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 495, effective March 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1, effective July 28, 1980; amended at 5 Ill. Reg. 1657, effective February 4, 1981; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6453, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982;

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amended at 6 Ill. Reg. 14544, effective November 8, 1982; amended at 6 Ill. Reg. 14675, effective November 15, 1982; amended at 6 Ill. Reg. 15556, effective December 15, 1982; amended at 7 Ill. Reg. 278, effective December 22, 1982; amended at 7 Ill. Reg. 1919 and 1945, effective January 28, 1983; amended at 7 Ill. Reg. 7963, effective July 1, 1983; amended at 7 Ill. Reg. 15817, effective November 15, 1983; amended at 7 Ill. Reg. 16984, effective December 14, 1983; amended at 8 Ill. Reg. 15574 and 15578 and 15581, effective August 15, 1984; amended at 8 Ill. Reg. 15935, effective August 17, 1984; amended at 8 Ill. Reg. 16980, effective September 5, 1984; codified at 8 Ill. Reg. 19806; amended at 8 Ill. Reg. 24214, effective November 29, 1984; amended at 8 Ill. Reg. 24680, effective December 7, 1984; amended at 9 Ill. Reg. 142, effective December 26, 1984; amended at 9 Ill. Reg. 331, effective December 28, 1984; amended at 9 Ill. Reg. 2964, effective February 25, 1985; amended at 9 Ill. Reg. 10876, effective July 1, 1985; amended at 11 Ill. Reg. 14795, effective October 1, 1987; amended at 11 Ill. Reg. 16830, effective October 1, 1987; amended at 12 Ill. Reg. 979, effective December 24, 1987; amended at 12 Ill. Reg. 16838, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18705, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6040, effective April 17, 1989; amended at 13 Ill. Reg. 19451, effective December 1, 1989; amended at 14 Ill. Reg. 14876, effective October 1, 1990; amended at 15 Ill. Reg. 466, effective January 1, 1991; amended at 16 Ill. Reg. 594, effective January 1, 1992; amended at 16 Ill. Reg. 13910, effective September 1, 1992; amended at 17 Ill. Reg. 2351, effective February 10, 1993; emergency amendment at 17 Ill. Reg. 2373, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7948, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; emergency amendment at 17 Ill. Reg. 9105, effective June 7, 1993, for a maximum of 150 days; emergency expired on November 4, 1993; amended at 17 Ill. Reg. 15056, effective September 3, 1993; amended at 17 Ill. Reg. 16153, effective January 1, 1994; amended at 17 Ill. Reg. 19210, effective October 26, 1993; amended at 17 Ill. Reg. 19517, effective November 4, 1993; amended at 17 Ill. Reg. 21017, effective November 20, 1993; amended at 18 Ill. Reg. 1432, effective January 14, 1994; amended at 18 Ill. Reg. 15789, effective October 15, 1994; amended at 19 Ill. Reg. 11481, effective July 29, 1995; amended at 19 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 350.330 Definitions

~~The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department--to--license--various levels of long-term care--they are defined as follows:~~

Abuse - any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)

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Abuse means:

Physical abuse refers to the infliction of injury on a resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.

Access - the right to:

Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act - as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity program - a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior - the effectiveness or degree with which the individual meets the standards of personal independence and social

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responsibility expected of his age and cultural group.

Adaptive Equipment - a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 350.1080 as a physical restraint.

Addition - any construction attached to the original building which increases the area or cubic content of the building.

Adequate - enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning - a notice to a facility issued by the Department under Section 350.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a type A or type B violation.

Administrator - the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate - a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate - means:

With respect to a partnership, each partner thereof.

With respect to a corporation, each officer, director and stockholder thereof.

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or

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stockholder. (Section 1-106 of the Act)

Aide or Orderly - any person providing direct personal care, training or habilitation services to residents.

Alteration - any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident - a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

Applicant - any person making application for a license. (Section 1-107 of the Act)

Appropriate - term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment - the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist - a person who is certified or is eligible for a certificate of clinical competence in audiology granted by the American Speech and Hearing Association under its requirements in effect on the publication of this provision or meets the educational requirements for certification and is in the process of accumulating the supervised experience required for certification.

Autism - a syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave - an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel - all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement - when used in this Part, means any story or floor level below the main or street floor. Where due to grade difference, there

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are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification - treatment to be used to establish or change behavior patterns.

Cerebral Palsy - a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX - the issuance of a document by the Department to the Department of Health and Human Services or the Department of Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse - a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical restraint - any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Child Care/Habilitation Aide - any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Community Alternatives - service programs in the community provided as an alternative to institutionalization.

Continuing Care Contract - a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract - a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience - the use of any restraint by the facility to control

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resident behavior or maintain a resident, which is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 350.1080 of this Part.

Corporal Punishment - painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident - failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist - any person licensed to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department - as used in this Part means the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide - any person who provides nursing, personal or rehabilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability - means a severe, chronic disability of a person which:

is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

is manifested before the person attains age 22;

is likely to continue indefinitely;

results in substantial functional limitations in 3 or more of the following areas of major life activity:

self-care,

receptive and expressive language,

learning,

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mobility,
self-direction,
capacity for independent living, and
economic self-sufficiency; and

reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801 of the Act)

Dietetic Service Supervisor - a person who:

is a qualified dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in paragraphs (2), (3) or (4) of this definition.

Dietitian - a person who:

is eligible for registration by the American Dietetic Association; or

has a baccalaureate degree with major studies in food and nutrition, dietetics, and food service management, has one year of supervisory experience in the dietetic service of a health care institution, and participates annually in continuing dietetic education.

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Direct Supervisor - work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director - the Director of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service - the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge - the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline - any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part - an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency - a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Epilepsy - a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing Long-Term Care Facility - any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility, Intermediate Care - a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or

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Any facility licensed by the Department of Mental Health and Developmental Disabilities as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangement Licensure and Certification Act [210 ILCS 135]; or
Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65]. (Section 1-113 of the Act)

Facility, Long-Term Care, for Residents Under 22 Years of Age - when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total rehabilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or developmental disabilities.

Facility, Sheltered Care - when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance and personal care.

Facility, Skilled Nursing - when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility - having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full time - on duty a minimum of 36 hours, four days per week.

Goal - an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian - a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5]. (Section 1-114 of the Act)

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disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled - when used in this Part is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.

Facility or Long-Term Care Facility - a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5], or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 U.S.C.A. 1395 et seq. and 1936 et seq.). A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities thereof, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

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Habilitation - an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health Services Supervisor - (Director of Nursing Service) the full-time Registered Nurse, or Licensed Practical Nurse, who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged - any facility which is operated: by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or, by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or, pursuant to a trust or endowment established for nonprofit, charitable purposes; and which provides maintenance, personal care, nursing or sheltered care to three or more residents, 90 percent of whom are 60 or more years of age.

Hospitalization - the care and treatment of a person in a hospital as an in-patient.

Individual Education Program (IEP) - a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) - a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Institutional Occupancy - when used in this Part means Health Care Facilities, Group (a), as defined in Chapter 10, paragraph 10-0001 of the Life Safety Code, National Fire Protection Association (1985 Edition).

Interdisciplinary Team - a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation Professional. The Interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and

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caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator - a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse - a person with a valid Illinois license to practice as a practical nurse.

Licensee - the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract - a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance - food, shelter, and laundry services. (Section 1-116 of the Act)

Maladaptive Behavior - impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Medical Record Practitioner - a person who: is eligible for certification as a registered record administrator (RRA) or an accredited record technician (ART), by the American Medical Record Association under its requirements; or is a graduate of a school of medical record science that is accredited jointly by the American Medical Association and the American Medical Record Association.

Mentally Retarded and Mental Retardation - subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property - using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory - unable to walk independently or without assistance, but able to move from place to place with the use of a

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device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mobile Resident - any resident who is able to move about either independently or with the aid of an assistive device such as a walker, crutches, a wheelchair, or a wheeled platform.

Monitor - a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect - a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

the alleged failure causing injury or deterioration is ongoing or repetitious; or

a resident required medical treatment as a result of the alleged failure; or

the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility - any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization - the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

Nurse - a registered nurse or a licensed practical nurse as defined in the Illinois Nursing Act of 1987 [225 ILCS 65]. (Section 1-118 of the Act)

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Nursing Assistant - any person who provides nursing care or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care - a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit - a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective - an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) - a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].

Occupational Therapy Assistant - a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator - the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury - occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight - general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

Owner - the individual, partnership, corporation, association or other

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person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person - any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

Personal Care - assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered - a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

Physical restraint - any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist Assistant - a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist - a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

Physician - any person licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Probationary License - an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist - a physician who has had at least three years of formal

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training or primary experience in the diagnosis and treatment of mental illness.

Psychologist - a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Mental Retardation Professional - a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

Be a physician as defined in this Section.

Be a registered nurse as defined in this Section.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational speciality area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Qualified Professional - a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by the eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered or certified by the State of Illinois, if required.

Reasonable visiting hours - any time between the hours of 10 a.m. and 8 p.m. daily. (Section 1-121 of the Act)

Registered Nurse - a person with a valid license to practice as a registered professional nurse under the Illinois Nursing Act of 1987.

Repeat Violation - For purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Reputable Moral Character - having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association,

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of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

Resident - person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director - the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative - a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care - a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Restraint-of--a--Resident---the--application--of--a--device--to--limit movements:

Room - a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Safety--Device---any--equipment--or--protective--device--used--on--a--bed--chair--or--resident--which--prevents--him--from--falling--or--otherwise--injuring--himself---Examples--are--bedside--rails--geriatric--or--adaptive--chairs--a--wide--band--vest--or--sheet--applied--to--prevent--falling--out--of--a--bed--or--chair--and--hand--socks--applied--to--prevent--injury--ones--self:

Sanitization - the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory - same as adequate.

Seclusion - the retention of a resident alone in a room with a door that the resident cannot open.

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Self Preservation - the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

Sheltered Care - maintenance and personal care. (Section 1-124 of the Act)

Social Worker, Qualified - a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal - the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization - the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a Corporation - any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

Story - when used in this Part means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

Student Intern - means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

an academic credit requirement in a high school or undergraduate institution, or

immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Compliance - meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 350.140(a)(3) and 350.150(a)(3).

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Substantial Failure - the failure to meet requirements other than a variance from the strict and literal performance that results in important omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 350.165(b)(1).

Sufficient - same as adequate.

Supervision - authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

Therapeutic Recreation Specialist - a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out - removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

Title XVIII - Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX - Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer - a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Unit - an entire physically identifiable residence area having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective rules governing the approved levels of service.

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Universal Progress Notes - a common record with periodic narrative documentation by all persons involved in resident care.

Valid License - a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

SUBPART E: RESIDENT LIVING SERVICES

Section 350.1080 Restraints

a) The facility shall have written policies controlling the use of physical restraints including, but not limited to, leg restraints, arm restraints, hand mitts, soft ties or vests, wheelchair safety bars and lap trays, and all facility practices that meet the definition of a restraint, such as tucking in a sheet so tightly that a bed-bound resident cannot move; bed rails used to keep a resident from getting out of bed; chairs that prevent rising; or placing a resident who uses a wheelchair so close to a wall that the wall prevents the resident from rising. Adaptive equipment is not considered a physical restraint. Wrist bands or devices on clothing that trigger electronic alarms to warn staff that a resident is leaving a room do not, in and of themselves, restrict freedom of movement and should not be considered as physical restraints. The policies shall be followed in the operation of the facility and shall comply with the Act and this Part.

b) No physical restraints with locks shall be used.

c) Physical restraints shall not be used on a resident for the purpose of discipline or convenience.

d) The use of chemical restraints is prohibited.

(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 350.1082 Nonemergency Use of Physical Restraints

a) Physical restraints shall only be used when required to treat the resident's medical symptoms or as a therapeutic intervention, as ordered by a physician, and based on:

1) the assessment of the resident's capabilities and an evaluation and trial of less restrictive alternatives that could prove effective;

2) the assessment of a specific physical condition or medical treatment that requires the use of physical restraints, and how the use of physical restraints will assist the resident in reaching his or her highest practicable physical, mental or

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notified that a resident has been restrained, it shall contact the resident to determine the circumstances of the restraint and whether further action is warranted. (Section 2-106(e) of the Act) If the resident requests that the Guardianship and Advocacy Commission be contacted, the facility shall provide the following information, in writing, to the Guardianship and Advocacy Commission:

- 1) the reason the physical restraint was needed;
- 2) the type of physical restraint that was used;
- 3) the interventions utilized or considered prior to physical restraint and the impact of these interventions;
- 4) the length of time the physical restraint was to be applied; and
- 5) the name and title of the facility person who should be contacted for further information.

g) Whenever a physical restraint is used on a resident whose primary mode of communication is sign language, the resident shall be permitted to have his or her hands free from restraint for brief periods each hour, except when this freedom may result in physical harm to the resident or others. (Section 2-106(f) of the Act)

h) The plan of care shall contain a schedule or plan of rehabilitative/habilitative training to enable the most feasible progressive removal of physical restraints or the most practicable progressive use of less restrictive means to enable the resident to attain or maintain the highest practicable physical, mental or psychosocial well being.

i) A resident wearing a physical restraint shall have it released for a few minutes at least once every two hours, or more often if necessary. During these times, residents shall be assisted with ambulation, as their condition permits, and provided a change in position, skin care and nursing care, as appropriate.

j) No form of seclusion shall be permitted.

(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 350.1084 Emergency Use of Physical Restraints

a) If a resident needs emergency care, physical restraints may be used for brief periods to permit treatment to proceed unless the facility has notice that the resident has previously made a valid refusal of the treatment in question. (Section 2-106(c) of the Act)

b) For this Section only, "emergency care" means the unforeseen need for immediate treatment inside or outside the facility that is necessary to:

- 1) save the resident's life;
 - 2) prevent the resident from doing serious mental or physical harm to himself/herself; or
 - 3) prevent the resident from injuring another individual.
- c) If a resident needs emergency care and other less restrictive

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psychosocial well being;

3) consultation with appropriate health professionals, such as rehabilitative nurses and occupational or physical therapists, which indicates that the use of less restrictive measures or therapeutic interventions has proven ineffective; and

4) demonstration by the care planning process that using a physical restraint as a therapeutic intervention will promote the care and services necessary for the resident to attain or maintain the highest practicable physical, mental or psychosocial well being. (Section 2-106(c) of the Act)

b) A physical restraint may be used only with the informed consent of the resident, the resident's guardian, or other authorized representative. (Section 2-106(c) of the Act) Informed consent includes information about potential negative outcomes of physical restraint use, including incontinence, decreased range of motion, decreased ability to ambulate, symptoms of withdrawal or depression, or reduced social contact.

c) The informed consent may authorize the use of a physical restraint only for a specified period of time. The effectiveness of the physical restraint in treating medical symptoms or as a therapeutic intervention and any negative impact on the resident shall be assessed by the facility throughout the period of time the restraint is used.

d) After 50 percent of the period of physical restraint use authorized by the informed consent has expired, but not less than five days before it has expired, information about the actual effectiveness of the physical restraint in treating the resident's medical symptoms or as a therapeutic intervention and about any actual negative impact on the resident shall be given to the resident, resident's guardian, or other authorized representative before the facility secures an informed consent for an additional period of time. Information about the effectiveness of the physical restraint program and about any negative impact on the resident shall be provided in writing.

e) A physical restraint may be applied only by staff trained in the application of the particular type of restraint. (Section 2-106(d) of the Act)

f) Whenever a period of use of a physical restraint is initiated, the resident shall be advised of his or her right to have a person or organization of his or her choosing, including the Guardianship and Advocacy Commission, notified of the use of the physical restraint. A period of use is initiated when a physical restraint is applied to a resident for the first time under a new or renewed informed consent for the use of physical restraints. A recipient who is under guardianship may request that a person or organization of his or her choosing be notified of the physical restraint, whether or not the guardian approves the notice. If the resident so chooses, the facility shall make the notification within 24 hours, including any information about the period of time that the physical restraint is to be used. Whenever the Guardianship and Advocacy Commission is

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interventions have proven ineffective, a physical restraint may be used briefly to permit treatment to proceed. The attending physician shall be contacted immediately for orders. If the attending physician is not available, the facility's advisory physician or Medical Director shall be contacted. If a physician is not immediately available, a nurse or QMRP with supervisory responsibility may approve, in writing, the use of physical restraints. A confirming order, which may be obtained by telephone, shall be obtained from the physician as soon as possible, but no later than within eight hours. The effectiveness of the physical restraint in treating medical symptoms or as a therapeutic intervention and any negative impact on the resident shall be assessed by the facility throughout the period of time the physical restraint is used. The resident must be in view of a staff person at all times until either the resident has been examined by a physician or the physical restraint has been removed. The resident's needs for toileting, ambulation, hydration, nutrition, repositioning, and skin care must be met while the physical restraint is being used.

d) The emergency use of a physical restraint must be documented in the resident's record, including:

- 1) the behavior incident that prompted the use of the physical restraint;
 - 2) the date and times the physical restraint was applied and released;
 - 3) the name and title of the person responsible for the application and supervision of the physical restraint;
 - 4) the action by the resident's physician upon notification of the physical restraint use;
 - 5) the new or revised orders issued by the physician;
 - 6) the effectiveness of the physical restraint in treating medical symptoms or as a therapeutic intervention and any negative impact on the resident; and
 - 7) the date of the scheduled care planning conference or the reason a care planning conference is not needed, in light of the resident's emergency need for physical restraint.
- e) The facility's emergency use of physical restraints shall comply with Sections 350.1082(e), (f), (g), and (j).

(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 350.1086 Unnecessary, Psychotropic, and Antipsychotic Drugs

a) A resident shall not be given unnecessary drugs in accordance with Section 350.1082 E. In addition, an unnecessary drug is any drug used:

- 1) in an excessive dose, including in duplicative therapy;
- 2) for excessive duration;

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- 3) without adequate monitoring;
- 4) without adequate indications for its use; or
- 5) in the presence of adverse consequences that indicate the drugs should be reduced or discontinued. (Section 2-106.1(a) of the Act)

b) Psychotropic medication shall not be prescribed without the informed consent of the resident, the resident's guardian, or other authorized representative. (Section 2-106.1(b) of the Act) Additional informed consent is not required for reductions in dosage level or deletion of a specific medication. The informed consent may provide for a medication administration program of sequentially increased doses or a combination of medications to establish the lowest effective dose that will achieve the desired therapeutic outcome. Side effects of the medications shall be described.

c) Residents shall not be given antipsychotic drugs unless antipsychotic drug therapy is necessary, as documented in the resident's comprehensive assessment, to treat a specific or suspected condition as diagnosed and documented in the clinical record or to rule out the possibility of one of the conditions in accordance with Section 350.1082 E.

d) Residents who use antipsychotic drugs shall receive gradual dose reductions and behavior interventions, unless clinically contraindicated, in an effort to discontinue these drugs in accordance with Section 350.1082 E.

e) For the purposes of this Section:

- 1) "Duplicative drug therapy" means any drug therapy that duplicates a particular drug effect on the resident without any demonstrative therapeutic benefit. For example, any two or more drugs, whether from the same drug category or not, which have a sedative effect.
- 2) "Psychotropic medication" means medication that is used for or listed as used for antipsychotic, antidepressant, antimanic or antianxiety behavior modification or behavior management purposes in the latest editions of the AHA drug evaluations (Drug Evaluation Subscription, American Medical Association, Vols. I-III, Summer 1993), United States Pharmacopoeia Dispensing Information Volume I (USP DI) (United States Pharmacopoeial Convention, Inc., 15th Edition, 1995), American Hospital Formulary Service Drug Information 1995 (American Society of Health Systems Pharmacists, 1995), or the Physician's Desk Reference (Medical Economics Data Production Company, 49th Edition, 1995) or the United States Food and Drug Administration approved package insert for the psychotropic medication. (Section 2-106.1(b) of the Act)
- 3) "Antipsychotic drug" means a neuroleptic drug that is helpful in the treatment of psychosis and has a capacity to ameliorate thought disorders.

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(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 350.1220 Physician Services

- a) The facility shall have a written program of medical services that reflects the philosophy of care provided, the policies relating to this, and the procedures for implementation of the services. The program shall include the health services provided by the facility and the arrangements to effect a transfer to other facilities as promptly as needed. The written program of medical services shall be followed in the operation of the facility. †B†
- b) There shall be a formal arrangement for qualified medical care for the facility, including care for medical emergencies on a 24 hour, seven days-a-week basis. The facility shall have an advisory physician, fully licensed to practice medicine in Illinois to provide advice on general health conditions and practices of the facility. †B†
- c) The services of a physician licensed to practice medicine in Illinois shall be available to every resident in the facility. †A†-B†
- d) The resident or his guardian shall be permitted his choice of physicians.
- e) All residents shall be seen by their physician as often as necessary to assure adequate health care †Medicare-Medicaid---requires certification-visit†---†A†-B†
- f) Physicians shall participate, when appropriate, in the continuing interdisciplinary evaluation of individual residents, for the purposes of initiation, monitoring, and follow-up of individualized habilitation programs for treatment.
- g) The statement of treatment goals and management plans shall be reviewed and updated at least semiannually to insure continuing appropriateness of the goals, consistency of management methods with the goals, and the achievement of progress toward the goals.
- h) The facility shall maintain ~~maintains~~ effective arrangements through which medical and remedial services required by the resident but not regularly provided within the facility can be obtained promptly when needed. †B†
- i) The administrator shall assume the responsibility for meeting the Department's rules entitled "Control of Communicable Disease Code" (77 Ill. Adm. Code 690), so that there is a minimum danger of transmission of contagious, infectious, or communicable diseases. †B†
- j) No resident with a communicable, contagious, or infectious disease shall be admitted knowingly. An exception shall be a resident whose only such infectious condition is one or more chronic decubital ulcers, from which laboratory tests have proven the presence of a pathogenic organism. Such a resident may be admitted when the facility is capable of implementing appropriate treatment and isolation techniques, to avoid secondary spread of infection. Additional exceptions may be requested on an individual case basis. Permission

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to admit or keep a resident with any other communicable, contagious, or infectious disease shall require the written approval of the Department. Such approval will be dependent upon the nature of the infectious condition or disease and the capability of the facility to provide proper care to the resident and to adequately safeguard the staff and other residents of the facility from secondary spread of infection. Any resident when suspected or diagnosed as having any communicable, contagious, or infectious disease, shall be placed in the appropriate type of isolation as required by the Department's rules entitled "Control of Communicable Disease Code" (77 Ill. Adm. Code 690), for the period of time required for each specific disease or until removed from the facility. †A†-B†

- k) All illnesses required to be reported under subsection (i) of this Section, shall be reported immediately to the local health department and to the Department. The administrator shall furnish all pertinent information relating to such occurrences. †B†
- l) Each resident admitted shall have a complete physical examination, within five days prior to admission, or within 72 hours after admission to the facility. This examination report shall include an evaluation of the resident's condition including height and weight, diagnosis, plan of treatment and recommendations, treatment orders, personal care needs, and permission for participation in the activity program as determined appropriate by the attending physician. The report shall include documentation of the presence or absence of tuberculosis infection by tuberculin skin test in accordance with Section 350.1225. The report shall also include documentation of the presence or absence of incipient or manifest decubitus ulcers (commonly known as bed sores) with grade, size and location specified, and orders for treatment if present. †A-photograph-of-incipient-or-manifest-decubitus-ulcers-is-recommended-on-admission† The report shall also include orders from the physician regarding weighing of the resident, and the frequency of such weighing, if ordered.
- m) The facility shall notify the resident's physician of any accident, injury, or change in a resident's condition that threatens the health, safety or welfare of a resident, including, but not limited to, the presence of incipient or manifest decubitus ulcers or a weight loss or gain of five percent or more within a period of 30 days. †B†
- n) At the time of an accident, immediate first aid treatment shall be provided by personnel trained in medically approved first aid procedures. †B†
- o) The admission information for a resident shall include diagnoses, summary of present medical findings, medical history, mental and physical functioning capacity, prognosis and an explicit recommendation by the physician with respect to admission to or continued care in the facility; it shall also include orders for medications, treatments, restorative services, diet, specific procedures recorded for the health and safety of the resident activities and plans for continuing care and discharge. If this

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information is not received with the resident at the time of admission, it must be received within 48 hours.

- p) If a resident becomes unmanageable, he shall be examined by a physician or a psychiatrist. This medical examination shall be made promptly. A psychologist and members of other appropriate professional disciplines shall be consulted, as necessary. (B)

- q) No resident shall be discharged without the concurrence of the attending physician. All involuntary discharges and transfers shall be in accordance with Sections 3-401 to 3-423 of the Act.

*† No form of seclusion shall be permitted, even if the resident desires it.

- s† Restraints shall be used only in an emergency to protect the resident from harming himself or harming other residents, visitors, or staff. If it is necessary to use restraints for this purpose, the attending physician shall be contacted immediately for his orders for this emergency. In the event the attending physician is not immediately available, the facility's advisory physician shall be contacted for such orders. This emergency use of restraints shall be used only temporarily, in a single emergency, restraints shall not be used for a period of more than four hours. If a restraint is used for more than two hours, it must be released for a few minutes at least once every two hours, or more often if necessary. There must be constant observation of the resident while a restraint is being used. No restraints with locking devices may be used. (B)

- t† The reason for ordering and using restraints shall be recorded in the clinical record. There shall be written policies, which are followed in the operation of the facility, covering the use of restraints.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

SUBPART G: MEDICATIONS

Section 350.1420 Conformance with Physician's Orders

- a) All medications, including cathartics, headache remedies, or vitamins, shall be given only upon the written order of a physician. (Rubber stamp signatures are not acceptable.) All such orders shall have the handwritten signature of the physician. These medications shall be given as prescribed by the physician and at the designated time. Telephone orders may be taken by a registered nurse or licensed practical nurse. All such orders shall be immediately written on the resident's clinical record, or a "telephone order form" and signed by the nurse taking the order. These orders shall be countersigned by the physician within ten working days.

- b) The staff pharmacist or consultant pharmacist shall review the medical record, including physician orders and laboratory test results, at least monthly and, based on their clinical experience and judgment,

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and Section 350. Appendix E, determine if there are irregularities which would cause potential adverse reactions, allergies, contraindications, or ineffectiveness. This review shall be done at the facility. Documentation of this review must be entered in the clinical record. Any irregularities noted shall be reported to the attending physician, the advisory physician, and the administrator.

- c) A medication order not specifically limiting the time or number of doses shall be automatically stopped in accordance with written policy approved by the pharmaceutical advisory committee.

- d) The resident's attending physician shall be notified of medications about to be stopped so that the physician may promptly renew such orders to avoid interruption of the resident's therapeutic regimen.

- e) All medications to be released to the resident, or person responsible for the resident's care, at the time of discharge or when the resident is going to be temporarily out of the facility at medication time (such as when attending a vocational training program or on a weekend pass) shall be approved by the physician. A notation concerning their disposition shall be made on the resident's clinical record.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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Section 350.APPENDIX E Guidelines for the Use of Various Drugs

A. Long-Acting Benzodiazepine Drugs

Long-acting benzodiazepine drugs should not be used in residents unless an attempt with a shorter-acting drug (i.e., those listed under B. Benzodiazepine or Other Anxiolytic/Sedative Drugs, and under C. Drugs Used for Sleep Induction) has failed.

After an attempt with a shorter-acting benzodiazepine drug has failed, a long-acting benzodiazepine drug should be used only if:

1. Evidence exists that other possible reasons for the resident's distress have been considered and ruled out;
2. Its use results in maintenance or improvement in the resident's functional status;
3. Daily use is less than four continuous months unless an attempt at a gradual dose reduction is unsuccessful; and
4. Its use is less than, or equal to, the following listed total daily doses unless higher doses (as evidenced by the resident's response and/or the resident's clinical record) are necessary for the maintenance or improvement in the resident's functional status.

EXAMPLES OF LONG-ACTING BENZODIAZEPINES

Generic	Brand	Daily Oral Dosage
Flurazepam	(Dalmane)	15mg
Chlordiazepoxide	(Librium)	20mg
Clorazepate	(Tranxene)	15mg
Prizepam	(Centrax)	15mg
Diazepam	(Valium)	5mg
Clonazepam	(Klonopin)	1.5mg
Quazepam	(Doral)	7.5mg

NOTES:

When diazepam is used for neuromuscular syndromes (e.g., cerebral palsy, tardive dyskinesia or seizure disorders), this Guideline does not apply.

When long-acting benzodiazepine drugs are being used to withdraw residents from short-acting benzodiazepine drugs, this Guideline does not apply.

When clonazepam is used in bi-polar disorders, management of tardive dyskinesia, nocturnal myoclonus or seizure disorders, this Guideline does not apply.

The daily doses listed under Long-Acting Benzodiazepines are doses

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(usually administered in divided doses) for "geriatric" or "elderly" residents. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it was necessary for the maintenance or improvement in the resident's functional status.

For drugs in this category, a gradual dose reduction should be attempted at least twice within one year before one can conclude that the gradual dose reduction is "clinically contraindicated."

B. Benzodiazepine or Other Anxiolytic/Sedative Drugs

Use of the listed Anxiolytic/Sedative drugs for purposes other than sleep induction should only occur if:

1. Evidence exists that other possible reasons for the resident's distress have been considered and ruled out;
2. Use results in a maintenance or improvement in the resident's functional status;
3. Daily use (at any dose) is less than four continuous months unless an attempt at a gradual dose reduction is unsuccessful;
4. Use is for one of the following indications as defined by the Diagnostic and Statistical Manual of Mental Disorders:
Generalized anxiety disorder;
Organic mental syndromes (including dementia) with associated agitated states which are quantitatively and objectively documented and which constitute sources of distress or dysfunction to the resident or represent a danger to the resident or others;
Panic disorder;
Symptomatic anxiety that occurs in residents with another diagnosed psychiatric disorder (e.g., depression, adjustment disorder); and

5. Use is equal to or less than the following listed total daily doses, unless higher doses (as evidenced by the resident's response and/or the resident's clinical record) are necessary for the improvement or maintenance in the resident's functional status.

EXAMPLES OF SHORT-ACTING BENZODIAZEPINES

Generic	Brand	Daily Oral Dosage
Lorazepam	(Ativan)	2mg
Oxazepam	(Serax)	30mg
Alprazolam	(Xanax)	9.75mg
Halazepam	(Paxipam)	40mg

EXAMPLES OF OTHER ANXIOLYTIC AND SEDATIVE DRUGS

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Generic	Brand	Daily Oral Dosage
Halazepam	(Paxipam)	20mg
Diphenhydramine	(Benadryl)	25mg
Hydroxyzine	(Atarax, Vistaril)	50mg
Chloral Hydrate	(Many Brands)	500mg

NOTES:

Diminished sleep in the elderly is not necessarily pathological.

The doses listed are doses for "geriatric" or "elderly" residents. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it was necessary for the maintenance or improvement in the resident's functional status.

Diphenhydramine, hydroxyzine, and chloral hydrate are not necessarily drugs of choice for sleep disorders. They are listed here only in the event of their potential use.

For drugs in this category, a gradual dose reduction should be attempted at least three times within six months before one can conclude that a gradual dose reduction is "clinically contraindicated."

D. Miscellaneous Hypnotic/Sedative/Anxiolytic Drugs

The initiation of the following hypnotic/sedative/anxiolytic drugs should not occur in any dose for any resident. (See Notes for exceptions.) Residents currently using these drugs or residents admitted to the facility while using these drugs should receive gradual dose reductions as part of a plan to eliminate or modify the symptoms for which they are prescribed. A gradual dose reduction should be attempted at least twice within one year before one can conclude that the gradual dose reduction is clinically contraindicated. Newly admitted residents using these drugs may have a period of adjustment before a gradual dose reduction is attempted.

(Caution: The rapid withdrawal of these drugs might result in severe physiological withdrawal symptoms.)

EXAMPLES OF BARBITURATES

Generic	Brand
Amobarbital	(Amytal)
Amobarbital-Secobarbital	(Tuinal)
Apobarbital	(Alurate)
Butobarbital	(Butisol)
Pentobarbital	(Nembutal)
Phenobarbital	(Luminal)

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Generic	Brand	Daily Oral Dosage
Diphenhydramine	(Benadryl)	50mg
Hydroxyzine	(Atarax, Vistaril)	50mg
Chloral Hydrate	(Many Brands)	750mg

NOTES:

The daily doses listed under Short-Acting Benzodiazepines are doses (usually administered in divided doses) for "geriatric" or "elderly" residents. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it was necessary for the maintenance or improvement in the resident's functional status.

For drugs in this category, a gradual dose reduction should be attempted at least twice within one year before one can conclude that a gradual dose reduction is "clinically contraindicated."

Diphenhydramine, hydroxyzine and chloral hydrate are not necessarily drugs of choice for treatment of anxiety disorders. They are only listed here in the event of their potential use.

C. Drugs Used for Sleep Induction

Drugs used for sleep induction should only be used if:

1. Evidence exists that other possible reasons for insomnia (e.g., depression, pain, noise, light, caffeine) have been ruled out;
2. The use of a drug to induce sleep results in the maintenance or improvement of the resident's functional status;
3. Daily use of the drug is less than ten continuous days unless an attempt at a gradual dose reduction is unsuccessful;
4. The dose of the drug is equal to or less than the following listed doses unless higher doses (as evidenced by the resident's response and/or the resident's clinical record) are necessary for maintenance or improvement in the resident's functional status.

EXAMPLES OF HYPNOTIC DRUGS

Generic	Brand	Oral Dosage
Tenazepam	(Restoril)	15mg
Triazolam	(Halcion)	0.125mg
Lorazepam	(Ativan)	1mg
Oxazepam	(Serax)	15mg
Alprazolam	(Xanax)	0.25mg

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Thiothixene	(Navane)	7mg
Haloperidol	(Haldol)	4mg
Molindone	(Moban)	10mg
Loxapine	(Loxitane)	10mg
Clozapine	(Clozaril)	50mg
Prochlorperazine	(Compazine)	10mg

NOTES:

The doses listed are daily doses (usually administered in divided doses) for residents with organic mental syndromes. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it is necessary for the maintenance or improvement in the resident's functional status.

The "specific conditions" for use of antipsychotic drugs are listed under this Guideline under G.

The dose of prochlorperazine may be exceeded for short term (seven day) treatment of nausea and vomiting.

When antipsychotic drugs are used outside these Guidelines, they may be deemed unnecessary drugs as a result of excessive doses.

F. Monitoring for Antipsychotic Drug Side Effects

The facility assures that residents who are undergoing antipsychotic drug therapy receive adequate monitoring for significant side effects of such therapy with emphasis on the following:

1. Tardive dyskinesia;
2. Postural (orthostatic) hypotension;
3. Cognitive/behavior impairment;
4. Akathisia; and
5. Parkinsonism.

When antipsychotic drugs are used without monitoring for these side effects, they may be unnecessary drugs because of inadequate monitoring.

G. Use of Antipsychotic Drugs

Antipsychotic drugs should not be used unless the clinical record documents that the resident has one or more of the following "specific conditions":

1. Schizophrenia;
2. Schizo-affective disorder;
3. Delusional disorder.

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Barbiturates with
other drugs (e.g., Fiorinal)

EXAMPLES OF MISCELLANEOUS HYPNOTIC/SEDATIVE/ANXIOLYTICS

Generic	Brand
Ethchlorvynol	(Placidyl)
Glutethimide	(Doriden)
Meprobamate	(Equinal, Miltown)
Methprylon	(Noludar)
Paraldehyde	(Many Brands)

NOTES:

Amobarbital is excepted from this Guideline when used as a single dose sedative for dental or medical procedures.

Phenobarbital is excepted from this Guideline when used in the treatment of seizure disorders.

When Miscellaneous Hypnotic/Sedative/Anxiolytic Drugs are used outside these Guidelines, they may be unnecessary drugs as a result of inadequate indications for use.

E. Antipsychotic Drugs

The following examples of antipsychotic drugs should not be used in excess of the listed doses for residents with organic mental syndromes (e.g., dementia, delirium) unless higher doses (as evidenced by the resident's response or the resident's clinical record) are necessary to maintain or improve the resident's functional status.

EXAMPLES OF ANTIPSYCHOTIC DRUGS FOR RESIDENTS WITH
ORGANIC MENTAL SYNDROMES

Generic	Brand	Daily Oral Dosage
Chlorpromazine	(Thorazine)	75mg
Promazine	(Sparine)	150mg
Triflupromazine	(Vesprin)	20mg
Thioridazine	(Mellaril)	75mg
Mesoridazine	(Sereniti)	25mg
Acetophenazine	(Tindal)	20mg
Perphenazine	(Trilafon)	8mg
Fluphenazine	(Prolixin, Permitil)	4mg
Trifluoperazine	(Stelazine)	8mg
Chlorprothixene	(Taractan)	75mg

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4. Psychotic mood disorders (including mania and depression with psychotic features);
5. Acute psychotic episodes;
6. Brief reactive psychosis;
7. Schizophreniform disorder;
8. Atypical psychosis;
9. Tourette's disorder;
10. Huntington's disease;
11. Organic mental syndromes (including dementia and delirium) with associated psychotic and/or agitated behaviors;
Which have been quantitatively (number of episodes) and objectively (e.g., biting, kicking, scratching) documented;
Which are not caused by preventable reasons; and
Which are causing the resident to:
Present a danger to her/himself or to others;
Continuously cry, scream, yell, or pace if these specific behaviors cause an impairment in functional capacity, or
Experience psychotic symptoms (hallucinations, paranoia, delusions) not exhibited as dangerous behaviors or as crying, screaming, yelling, or pacing but which cause the resident distress or impairment in functional capacity; or
12. Short term (seven days) symptomatic treatment of hiccups, nausea, vomiting or pruritus.

Antipsychotics should not be used if one or more of the following is/are the only indication:

1. Wandering,
2. Poor self care,
3. Restlessness,
4. Impaired memory,
5. Anxiety,
6. Depression (without psychotic features),
7. Insomnia,
8. Unsociability,
9. Indifference to surroundings,
10. Fidgeting,
11. Nervousness,
12. Uncooperativeness, or
13. Agitated behaviors which do not represent danger to the resident or others.

As needed or P.R.N. antipsychotic drugs should only be used when the resident has a "specific condition" for which antipsychotic drugs are indicated (that is, points one through twelve above) and one of the following circumstances exists:

1. The as needed or P.R.N. dose is being used to titrate the resident's

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2. total daily dose up to achieve symptom relief, or down to avoid side effects, or down to effect a gradual dose reduction, or
The as needed or P.R.N. dose is being used to manage unexpected harmful behaviors that cannot be managed without antipsychotic drugs. Under this circumstance, a P.R.N. antipsychotic drug may be used no more than twice in any seven day period without an assessment of the cause for the resident's behavioral symptoms, and the development of a plan of care designed to attempt to reduce or eliminate the cause(s) for the harmful behavior.

H. Antipsychotic Drug Gradual Dose Reduction

Residents must, unless clinically contraindicated, have gradual dose reductions of the antipsychotic drug. The gradual dose reduction should be under close supervision. If the gradual dose reduction is causing an adverse effect on the resident and the gradual dose reduction is discontinued, documentation of this decision and the reasons for it should be included in the clinical record. Gradual dose reductions consist of tapering the resident's daily dose to determine if the resident's symptoms can be controlled by a lower dose or to determine if the dose can be eliminated altogether.

"Behavioral interventions" means modification of the resident's behavior or the resident's environment, including staff approaches to care, to the largest degree possible to accommodate the resident's behavioral symptoms.

"Clinically contraindicated" means that a resident with a "specific condition" (as listed in these Guidelines under G, 1-11) who has had a history of recurrence of psychotic symptoms (e.g., delusions, hallucinations) which have been stabilized with a maintenance dose of an antipsychotic drug without incurring significant side effects (e.g., tardive dyskinesia) should not receive gradual dose reductions. In residents with organic mental syndromes (e.g., dementia, delirium), "clinically contraindicated" means that a gradual dose reduction has been attempted twice in one year and that attempt resulted in the return of symptoms for which the drug was prescribed to a degree that a cessation in the gradual dose reduction, or a return to previous dose levels, was necessary.

I. Exceptions to These Guidelines

The facility shall have the opportunity to provide a rationale for the use of drugs prescribed outside these Guidelines. The facility may not justify the use of a drug prescribed outside these Guidelines solely on the basis of "the doctor ordered it." The rationale must be based on sound risk-benefit analysis of the resident's problem and potential adverse effects of the drug.

The unnecessary drug criterion of "adequate indications for use" does not

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simply mean that the physician's order must include a reason for using the drug (although such order writing is encouraged). It means that the resident lacks a valid clinical reason for use of the drug as evidenced by the evaluation of some, but not necessarily all, of the following: resident assessment, plan of care, reports of significant change, progress notes, laboratory reports, professional consults, drug orders, observation and interview of the resident, and other information.

In determining whether an antipsychotic drug is without a "specific condition" or that "gradual dose reduction and behavioral interventions" have not been performed, the facility shall justify why using the drug outside these Guidelines is in the best interest of the resident.

Examples of evidence that would support a justification of why a drug is being used outside these Guidelines but in the best interests of the resident may include, but are not limited to:

1. A physician's note indicating, for example, that the dosage, duration, indication, and monitoring are clinically appropriate, and the reasons why they are clinically appropriate; this note should demonstrate that the physician has carefully considered the risk/benefit to the resident in using drugs outside these Guidelines;
2. A medical or psychiatric consultation or evaluation (e.g., Geriatric Depression Scale) that confirms the physician's judgment that use of a drug outside these Guidelines is in the best interest of the resident;
3. Physician, nursing, or other health professional documentation indicating that the resident is being monitored for adverse consequences or complications of the drug therapy;
4. Documentation confirming that previous attempts at dosage reduction have been unsuccessful;
5. Documentation (such as MDS documentation) showing resident's subjective or objective improvement, or maintenance of function while taking the medication;
6. Documentation showing that a resident's decline or deterioration is evaluated by the interdisciplinary team to determine whether a particular drug, or a particular dose, or duration of therapy, may be the cause;
7. Documentation showing why the resident's age, weight, or other factors would require a unique drug dose or drug duration, indication, monitoring; and
8. Other evidence which may be appropriate.

(Source: Added at 19 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Long-Term Care for Under Age 22 Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 390
- 3) Section Numbers: Proposed Action:
 390.330 Amendments
 390.1040 Amendments
 390.1310 Amendments
 390.1312 New Section
 390.1314 New Section
 390.1316 New Section
 390.1320 Amendments
 390.1330 Repealer
 390.1420 Amendments
 Appendix C New Section

- 4) Statutory Authority: Nursing Home Care Act (210 ILCS 45)
- 5) A Complete Description of the Subjects and Issues Involved:

Changes to Section 390.330 (Definitions) include: the addition of definitions for the terms Adaptive Equipment; Chemical Restraint; Convenience; Discipline; and Physical Restraint; the deletion of definitions for the terms Restraint; Restriction; and Safety device. These changes are in response to Public Act 88-413 (effective August 20, 1993).

Section 390.1040 (Nursing Services) is being amended to delete reference to "safety devices" in subsection (c) and clarify the use of side rails on beds.

Section 390.1310 (Restraints and Safety Devices) is being amended in response to P.A. 88-413, which extensively amended the Nursing Home Care Act in regard to the use of physical and chemical restraints and drug treatment. The Act requires the Department, by rule, to designate certain devices as restraints and to adopt the standards for unnecessary drugs contained in the Federal Interpretive Guidelines. Section 390.1310 requires facilities to have policies concerning the use of restraints; lists devices and practices considered to be restraints; deletes use of the term "safety devices."

Section 390.1312 is being added to set forth requirements for the nonemergency use of restraints. These include provisions for the use of physical restraints, consent of the resident, the resident's guardian, or other authorized representative; authorization of the use of restraints for a specific period of time; application of restraints by trained staff; care planning for progressive removal of restraints or progressive use of

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less restrictive means; periodic release of restraints and provision of care; and prohibition of the use of any form of seclusion.

Section 390.1314 is added to address the emergency use of restraints. The rule defines "emergency care"; sets forth requirements for documentation of the emergency use of a restraint in the resident record; includes procedures for physician's orders and care of the resident; references other provisions of the rules that must be followed in emergency use of restraints.

Section 390.1316 is a new Section entitled "Unnecessary, Psychotropic and Antipsychotic Drugs." The rule sets forth the circumstances in which the use of a drug would be "unnecessary"; defines the terms "duplicative drug therapy," "psychotropic medication," and "antipsychotic drug"; and includes provisions for informed consent, documentation, and dose reductions and behavior interventions.

Section 390.1320 (Behavior Management) is being amended to delete reference to Individual Behavior Programs utilizing restriction and chemical restraints.

Section 390.1330 (Behavior Emergencies) is being repealed.

Section 390.1420 is amended to add a reference to Section 390.Appendix C, "Guidelines for the Use of Various Drugs" in the subsection concerning review of medication orders.

Section 390.Appendix C is added to include, as required by P.A. 88-413, the standards for unnecessary drugs contained in the interpretive guidelines issued by the U.S. Department of Health and Human Services for the purpose of administering Titles 18 and 19 of the Social Security Act.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of the notice in the *Illinois Register*.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

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10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules, within 45 days after this issue of the *Illinois Register*, by writing to:

Ms. Gail M. DeVito
Division of Governmental Affairs
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

These rules may have an impact on small business. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Long-term care facilities for persons under age 22.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: Professional skills necessary to comply with existing requirements in this Part.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: Amendments implementing P.A. 88-413 were originally included in a rulemaking that was proposed on July 29, 1994. In response to a JCAR objection, those provisions were deleted from the rulemaking when it was adopted on July 29, 1995. These amendments differ from the July 29, 1994 proposal in that changes have been made in response to issues raised by JCAR.

The full text of the Proposed Amendment begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 390

LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE

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390.140	Issuance of an Initial License for a New Facility
390.150	Issuance of an Initial License Due to a Change of Ownership
390.160	Issuance of a Renewal License
390.165	Criteria for Adverse Licensee Actions
390.170	Denial of Initial License
390.175	Denial of Renewal of License
390.180	Revocation of License
390.190	Experimental Program Conflicting With Requirements
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390.210	Filing an Annual Attested Financial Statement
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390.240	Municipal Licensing
390.250	Ownership Disclosure
390.260	Issuance of Conditional Licenses
390.270	Monitor and Receivership
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390.274	Determination of the Level of a Violation
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390.282	Conditions for Assessment of Penalties
390.284	Calculation of Penalties
390.286	Determination to Assess Penalties
390.288	Reduction or Waiver of Penalties
390.290	Quarterly List of Violators
390.300	Alcoholism Treatment Programs in Long-Term Care Facilities
390.310	Department May Survey Facilities Formerly Licensed
390.320	Waivers
390.330	Definitions
390.340	Incorporated and Referenced Materials

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SUBPART F: RESTRAINTS AND AND-SAFETY-DEVICES⁷ BEHAVIOR
MANAGEMENT⁷-AND-BEHAVIOR-EMERGENCIES

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Section
 390.1310 Restraints ~~and-Safety-Devices~~
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Section
 390.1410 Medication Policies and Procedures
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Section
 390.1610 Resident Record Requirements
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SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW FACILITIES

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amendment at 6 Ill. Reg. 3223, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11622, effective September 14, 1982; amended at 6 Ill. Reg. 14557 and 14560, effective November 8, 1982; amended at 6 Ill. Reg. 14678, effective November 15, 1982; amended at 7 Ill. Reg. 282, effective December 22, 1982; amended at 7 Ill. Reg. 1927, effective January 28, 1983; amended at 7 Ill. Reg. 8574, effective July 11, 1983; amended at 7 Ill. Reg. 15821, effective November 15, 1983; amended at 7 Ill. Reg. 16988, effective December 14, 1983; amended at 8 Ill. Reg. 15585, 15589, and 15592, effective August 15, 1984; amended at 8 Ill. Reg. 16989, effective September 5, 1984; codified at 8 Ill. Reg. 19823; amended at 8 Ill. Reg. 24159, effective November 29, 1984; amended at 8 Ill. Reg. 24656, effective December 7, 1984; amended at 8 Ill. Reg. 25083, effective December 14, 1984; amended at 9 Ill. Reg. 122, effective December 26, 1984; amended at 9 Ill. Reg. 10785, effective July 1, 1985; amended at 11 Ill. Reg. 16782, effective October 1, 1987; amended at 12 Ill. Reg. 931, effective December 24, 1987; amended at 12 Ill. Reg. 16780, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18243, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6301, effective April 17, 1989; amended at 13 Ill. Reg. 19521, effective December 1, 1989; amended at 14 Ill. Reg. 14904, effective October 1, 1990; amended at 15 Ill. Reg. 1878, effective January 25, 1991; amended at 16 Ill. Reg. 623, effective January 1, 1992; amended at 16 Ill. Reg. 14329, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2390, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7974, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15073, effective September 3, 1993; amended at 17 Ill. Reg. 16167, effective January 1, 1994; amended at 17 Ill. Reg. 19235, effective October 26, 1993; amended at 17 Ill. Reg. 19547, effective November 4, 1993; amended at 17 Ill. Reg. 21031, effective November 20, 1993; amended at 18 Ill. Reg. 1453, effective January 14, 1994; amended at 18 Ill. Reg. 15807, effective October 15, 1994; amended at 19 Ill. Reg. 11525, effective July 29, 1995; amended at 19 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 390.330 Definitions

~~The terms defined in this Section are terms that are used in one or more of the acts of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:~~

~~Abuse - any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)~~

Abuse means:

Physical abuse refers to the infliction of injury on a

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Treatment and Personal Care
Service Department
General Building Requirements
Structural
Mechanical Systems
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SUBPART O: RESIDENT'S RIGHTS

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390.3220 Medical and Personal Care Program
390.3230 Restraints
390.3240 Abuse and Neglect
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390.3260 Resident's Funds
390.3270 Residents' Advisory Council
390.3280 Contract With Facility
390.3290 Private Right of Action
390.3300 Transfer or Discharge
390.3310 Complaint Procedures
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SUBPART P: DAY CARE PROGRAMS

Day Care in Long-Term Care Facilities

APPENDIX A Interpretation and Illustrative Services for Long-Term Care Facility for Residents Under 22 Years of Age

APPENDIX B Forms for Day Care in Long-Term Care Facilities

APPENDIX C Guidelines for the Use of Various Drugs

TABLE A Infant Feeding

TABLE B Daily Nutritional Requirements By Age Group

TABLE C Sound Transmissions Limitations

TABLE D Pressure Relationships and Ventilation Rates of Certain Areas for New Long-Term Care Facilities for Persons Under Twenty-Two (22) Years of Age

TABLE E Sprinkler Requirements

TABLE F Disaster Preparedness Parameters - Relative Humidity and Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Adopted at 6 Ill. Reg. 1658, effective February 1, 1982; emergency

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resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.

Access - the right to:

Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act - as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity Program - a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior - the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

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Adaptive Equipment - a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 390.1310 as a physical restraint.

Addition - any construction attached to the original building which increases the area or cubic content of the building.

Adequate - enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning - a notice to a facility issued by the Department under Section 390.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a type A or type B violation.

Administrator - the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate - a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate - means:

With respect to a partnership, each partner thereof.

With respect to a corporation, each officer, director and stockholder thereof.

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

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Aide or Orderly - any person providing direct personal care, training or habilitation services to residents.

Alteration - any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident - a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

Applicant - any person making application for a license. (Section 1-107 of the Act)

Appropriate - term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment - the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist - a person who is certified or is eligible for a certificate of clinical competence in audiology granted by the American Speech and Hearing Association under its requirements in effect on the publication of this provision or meets the educational requirements for certification, and is in the process of accumulating the supervised experience required for certification.

Autism - a syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave - an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel - all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement - when used in this Part, means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall

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not be counted in determining the height of a building in stories.

Behavior Modification - treatment to be used to establish or change behavior patterns.

Cerebral Palsy - a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX - the issuance of a document by the Department to the Department of Health and Human Services or the Department of Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse - a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint - Any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Child Care/Habilitation Aide - any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Community Alternatives - service programs in the community provided as an alternative to institutionalization.

Continuing Care Contract - a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract - a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience - the use of any restraint by the facility to control resident behavior or maintain a resident, which is not in the resident's best interest, and with less use of the facility's effort

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and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 390.1310 of this Part.

Corporal Punishment - painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident - failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist - any person licensed by the State of Illinois to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department - as used in this Part means the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide - any person who provides nursing, personal or rehabilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability - means a severe, chronic disability of a person which:

is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

is manifested before the person attains age 22;

is likely to continue indefinitely;

results in substantial functional limitations in 3 or more of the following areas of major life activity:

self-care,

receptive and expressive language,

learning,

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mobility,

self-direction,

capacity for independent living, and

economic self-sufficiency; and

reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801 of the Act)

Dietetic Service Supervisor - a person who:

is a qualified dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in paragraphs (2), (3) or (4) of this definition.

Dietitian - a person who:

is eligible for registration by the American Dietetic Association; or

has a baccalaureate degree with major studies in food and nutrition, dietetics, and food service management, has 1 year of supervisory experience in the dietetic service of a health care institution, and participates annually in continuing dietetic education.

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Direct Supervision - work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director - the Director of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service - the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge - the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline - any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part - an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency - a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Epilepsy - a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing Long-Term Care Facility - any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility, Intermediate Care - a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such

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facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled - when used in this Part, is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.

Facility or Long-Term Care Facility - a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5] or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 U.S.C.A. 1395 et seq. and 1936 et seq.). A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

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Any facility licensed by the Department of Mental Health and Developmental Disabilities as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]; or

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65]. (Section 1-113 of the Act)

Facility, Long-Term Care, for Residents Under 22 Years of Age - when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total rehabilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or developmental disabilities.

Facility, Sheltered Care - when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance, and personal care.

Facility, Skilled Nursing - when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides a skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility - having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time - on duty a minimum of 36 hours, four days per week.

Goal - an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian - a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5]. (Section 1-114 of the Act)

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Habilitation - an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health Services Supervisor - (Director of Nursing Service) the full-time Registered Nurse, or Licensed Practical Nurse, who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged - any facility which is operated: by a not-for-profit corporation incorporated under, or qualified as a foreign corporation, under the General Not For Profit Corporation Act of 1966 [805 ILCS 105]; or, by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or, pursuant to a trust or endowment established for nonprofit, charitable purposes; and which provides maintenance, personal care, nursing or sheltered care to three or more residents, 90 percent of whom are 60 or more years of age.

Hospitalization - the care and treatment of a person in a hospital as an in-patient.

Individual Education Program (IEP) - a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) - a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Institutional Occupancy - when used in this Part means Health Care Facilities, Group (a), as defined in Chapter 10, paragraph 10-0001 of the Life Safety Code, National Fire Protection Association (1985 Edition).

Interdisciplinary Team - a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation Professional. The Interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers,

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including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator - a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse - a person with a valid Illinois license to practice as a practical nurse.

Licensee - the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract - a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance - food, shelter, and laundry services. (Section 1-116 of the Act)

Maladaptive Behavior - impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Medical Record Practitioner - a person who: is eligible for certification as a registered record administrator (RRA) or an accredited record technician (ART), by the American Medical Record Association under its requirements; or is a graduate of a school of medical record science that is accredited jointly by the American Medical Association and the American Medical Record Association.

Mentally Retarded and Mental Retardation - subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property - using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory - unable to walk independently or without

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assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mobile Resident - any resident who is able to move about either independently or with the aid of an assistive device such as a walker, crutches, a wheelchair, or a wheeled platform.

Monitor - a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect - a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

the alleged failure causing injury or deterioration is ongoing or repetitious; or

a resident required medical treatment as a result of the alleged failure; or

the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility - any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization - the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

Nurse - a registered nurse or a licensed practical nurse as defined in the Illinois Nursing Act of 1987 [225 ILCS 65]. (Section 1-118 of

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the Act)

Nursing Assistant - any person who provides nursing care or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care - a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit - a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective - an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) - a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].

Occupational Therapy Assistant - a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator - the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury - occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight - general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

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Owner - the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person - any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

Personal Care - assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered - a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

Physical Restraint - any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist Assistant - a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist - a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

Physician - any person licensed by the State of Illinois to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Probationary License - an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

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Psychiatrist - a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist - a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Mental Retardation Professional - a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

Be a physician as defined in this Section.

Be a registered nurse as defined in this Section.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Qualified Professional - a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

Reasonable Visiting Hours - any time between the hours of 10:00 a.m. and 8:00 p.m. daily. (Section 1-121 of the Act)

Registered Nurse - a person with a valid Illinois license to practice as a registered professional nurse under the Illinois Nursing Act of 1987.

Repeat Violation - For purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

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Reputable Moral Character - having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

Resident - person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director - the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative - a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care - a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Restraint-----any--physical--mechanical--or--chemical--means--or--the--use thereof--that--restricts--movement--of--the--limbs--head--or--body--of--a resident--except--when--used--as--a--safety--device--or--as--part--of--a medically--prescribed--procedure--for--the--treatment--of--an--existing physical--disorder--or--the--amelioration--of--a--physical--or--emotional handicap

Mechanical--restraint--is--any--mechanical--device--or--use--thereof that--so--restricts--movement

Physical--restraint--is--the--use--of--personal--human--force--that--so restricts--movement

Chemical--restraint--is--the--use--of--any--chemical--that--so--restricts movement

Mechanical--supports--used--to--achieve--proper--body--position--and balance--are--not--restraints--the--partial--or--total--immobilization

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~~of--a--resident--for-the-purpose-of-performing-a-medical/surgical procedure-is-not-restraint-~~

~~Restriction--the-placement-of-a-limitation-on--a--resident's--rights, which--includes--the-use-of-restraints--confinement--aversive-stimuli, and-time-out-exceeding-15-minutes-at-any-one-time-~~

Room - a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Safety Device - any equipment or protective device used on a bed, chair, or resident which prevents him from falling or otherwise injuring himself. Examples are: bedside rails; geriatric or adaptive chairs; a wide band, vest or sheet applied to prevent falling out of a bed or chair; and hand socks applied to prevent injuring one's self.

Sanitization - the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory - same as adequate.

Seclusion - the retention of a resident alone in a room with a door that the resident cannot open.

Self Preservation - the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

Sheltered Care - maintenance and personal care. (Section 1-124 of the Act)

Social Worker, Qualified - A person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal - the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization - the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a Corporation - any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

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Story - when used in this Part means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

Student Intern - means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

an academic credit requirement in a high school or undergraduate institution; or

immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Compliance - meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 390.140(a)(3) and 390.150(a)(3).

Substantial Failure - the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 390.165(b)(1).

Sufficient - Same as adequate.

Supervision - authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

Therapeutic Recreation Specialist - a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out - removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified

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professional.

Title XVIII - Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX - Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer - a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Unit - an entire physically identifiable residence area having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective rules governing the approved levels of service.

Universal Progress Notes - a common record with periodic narrative documentation by all persons involved in resident care.

Valid License - a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

SUBPART E: HEALTH AND DEVELOPMENTAL SERVICES

Section 390.1040 Nursing Services

- a) The facility shall have a written program of Nursing Services, providing for a planned medical program, encompassing nursing treatments, rehabilitation and habilitation nursing, skilled observations, and ongoing evaluation and coordination of the resident's individual habilitation plan.
- b) There shall be a sufficient number of nursing and auxiliary personnel on duty 24 hours each day to provide adequate and properly supervised

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nursing services to meet the nursing needs of the residents. There shall be at least one registered nurse seven days a week, for 8 consecutive hours. There shall be at least one registered nurse or licensed practical nurse on duty at all times and on each floor housing residents. Nursing staff personnel shall include registered professional nurses, licensed practical nurses, and auxiliary personnel as defined in Section 390.330 of this Part.

- c) There shall be a director of nursing who shall be a registered nurse.
- d) The director of nursing shall have knowledge and training in nursing service administration, restorative and habilitative nursing.
- e) The director of nursing shall be a full-time employee who is on duty a minimum of 36 hours, four days per week. At least 50 percent of this person's hours shall be regularly scheduled some time between 7 A.M. and 7 P.M.

1) A facility may, with written approval from the Department, have two registered nurses share the duties of this position if it is unable to obtain a full-time person. Such an arrangement will be granted approval only through written documentation that the facility was unable to obtain the full-time services of a qualified individual to fill this position. Such documentation shall include, but not be limited to: an advertisement that has appeared in a newspaper of general circulation in the area for at least three weeks; the names, addresses and phone numbers of all persons who applied for the position and the reasons why they were not acceptable or would not work full-time; and information about the number and availability of registered nurses in the area. The Department will grant approval only when such documentation indicates that there were no qualified applicants who were willing to accept the job on a full-time basis, and the pool of registered nurses available in the area cannot be expected to produce, in the near future, a qualified person who is willing to work full-time. If two persons are to share the position, one shall be designated the Director of Nursing Services and the other shall be designated the Assistant Director of Nursing Services. Both of these persons shall be R.N.s.

- 2) In facilities with a capacity of less than 50 beds, this person (or these persons), may also provide direct patient care, and this person's time may be included in meeting the staff/resident ratio requirements.
- f) In facilities of 100 occupied beds or more, there shall be an assistant director of nursing who is a registered nurse licensed to practice in Illinois. The assistant must meet the qualifications specified in subsection (d) of this Section.
- g) The assistant director of nursing shall be a full-time employee who is on duty a minimum of 36 hours, four days per week. The assistant need not work on the day shift but may be assigned to any shift.
- h) The assistant director of nursing shall assist the director in

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carrying out her responsibilities.

- i) The responsibilities of the director of nursing shall include, at a minimum, the following:

- 1) Assigning and directing the activities of nursing and auxiliary service personnel.
- 2) Planning an up-to-date resident care plan for each resident in cooperation with the interdisciplinary team based on individual needs and goals to be accomplished, physician's orders, and personal care and nursing needs. Services such as nursing, developmental, activities, dietary, and such other modalities as are ordered by the physician, shall be reflected in the preparation of the resident care plan. The plan shall be in writing and shall be reviewed and modified in keeping with the care needed as indicated by the resident's condition. The plan shall be reviewed every three months.
- 3) Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection and recommending termination of employment when necessary.
- 4) Participating in planning and budgeting for nursing services including purchasing of necessary equipment and supplies.
- 5) Developing and maintaining nursing service objectives, standards of nursing practice, written policies and procedures, and written job descriptions for each level of nursing and auxiliary personnel.
- 6) Coordinating health services and nursing services with other resident care services such as medical, pharmaceutical, dietary activities, and any other restorative and habilitative services offered.
- 7) Planning of inservice education, embracing orientation, skill training, and ongoing education for all nursing personnel covering all aspects of resident care and programming. The educational program shall include training and practice in activities and restorative and habilitative nursing techniques through out-of-facility or in-facility training programs. The director of nursing may conduct these programs personally or see to it that they are carried out.
- 8) Participating in the development and implementation of resident care policies and bringing resident care problems, requiring changes in policy, to the attention of the facility's policy development group. (See Section 390.610(a).)
- 9) Participating in the screening of prospective residents and their placement in terms of services they need and nursing competencies available.
- j) Nursing care (including personal, habilitative and rehabilitative care measures) shall be practiced on a 24 hour, seven day a week basis in the care of residents. Those procedures requiring medical approval shall be ordered by the attending physician.

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- k) Nursing care shall include at a minimum the following:

- 1) All medications including oral, rectal, hypodermic, and intra-muscular shall be properly administered.
- 2) All treatment such as: enemas, irrigations, catheterizations, applications of dressing or bandages, supervision of special diets, restorative and habilitative measures in Section 390.1620(a)(11) and other treatments involving a like level of skill, shall be properly administered.
- 3) All objective observations of changes in a resident's condition, including mental and emotional changes, as a means for analyzing and determining care required and the need for further medical, nursing or psychosocial evaluation and treatment shall be provided.
- 1) Each resident shall have his temperature taken daily unless otherwise ordered by the physician. If the temperature varies two degrees from the normal for the resident, the physician shall be notified.
- m) Skin care shall be given to prevent pressure sores, heat rashes or other skin breakdown. Each resident with pressure sores, heat rashes or other skin breakdown shall be checked at least every two hours and given care as needed including clothing and diaper change. Skin care shall be given with each diaper change.
- n) Skin care should be provided as follows:
 - 1) Bathing, clean linens, diapers, and clothing each time the bed or clothing is soiled. Rubber, plastic, or other types of linen protectors (newspapers not acceptable) shall be properly cleaned and completely covered to prevent direct contact with the resident. If rubber, plastic, or other type of waterproof materials are used for protective pants, they shall not come in direct contact with the resident. Special attention shall be given to the skin to prevent irritations, skin rashes, or ulcerations.
 - 2) Assistance in being up and out of bed as much as the condition of the resident permits. The resident may be denied this assistance only upon the written order of his physician. If the resident cannot move himself, he shall have his position changed every two hours or more as necessary.
- o) All necessary precautions shall be taken to assure the safety of residents at all times, such as: nonslip wax on floors, ~~side-rails-on~~ beds--safe equipment, adaptive equipment and assistive devices properly maintained, and proper use of side rails on beds and restraints safety-devices. (See Section 390.2020(a)(2).) ~~(A7-B7)~~
- p) Each resident shall perform all of the following personal care functions independently if possible. If unable to do so, assistance shall be provided by staff.
 - 1) Each resident shall bathe as often as necessary, but at least daily.
 - 2) Each resident shall change clothing as often as necessary, but at least daily.

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- 3) Each resident shall shampoo as often as necessary, but at least weekly.
- 4) Each resident shall clean and trim fingernails and toenails as often as necessary but at least weekly.
- 5) Each resident shall perform oral hygiene as often as necessary, but at least daily.
- 6) Each female resident shall be provided with commercial sanitary napkins during menses. Frequent cleansing of the perineal area shall be performed.
- q) Haircuts shall be provided as needed. Socially acceptable hair styles and the wishes of the resident must be taken into consideration.
- r) Each resident shall dress in street clothing and be out of bed at all times other than regularly scheduled sleeping or napping hours, unless contraindicated.
- s) ~~Adaptive--equipment--shall--be--provided--to--ensure--the--safety--of--the--resident--(such--as--seat--belts--helmets--mitts--and--spectal--padding--)~~
- s) Each resident shall be weighed upon admission and at least once a week thereafter unless otherwise ordered in writing by the physician. Any significant change shall be reported to the attending physician and dietitian.
- t) Each resident shall be encouraged and, if necessary, assisted in maintaining good body alignment while lying in bed, sitting or standing, through proper positioning and turning.
- u) Each resident shall be assisted in maintaining maximum joint range of motion, and active range of motion through proper exercises.
- v) Each resident shall be trained and encouraged to adopt food habits as near as possible to normal. Residents shall receive solids, unless otherwise ordered in writing by the physician. Each resident shall eat in as upright a position as possible and out of bed unless contraindicated.
- w) Each incontinent resident shall be assisted in regaining bowel and bladder patterns through proper bowel and bladder training or retraining. The use of indwelling catheters shall be discouraged.
- x) All residents shall be encouraged and, when necessary, taught to function at their maximum level in all activities of daily living for as long as and to the degree that they are able.
- y) All residents shall be assisted and encouraged with daily ambulation unless otherwise ordered by the physician.
- z) All residents shall be taught and assisted with safe transfer activities in an effort to help them retain, regain, or gain their maximum level of independence.
- aa) Staffing shall be based on the needs of the residents, and shall be determined by figuring the number of hours of personal and rehabilitative time each resident needs on each shift of the day. This determination shall be made separately for both licensed nursing personnel and other personal and rehabilitative care personnel. Personal and rehabilitative personnel may include, in addition to licensed nurses, such persons as aides, orderlies, therapists,

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- teachers, and any other person providing direct habilitative care to residents.
- 1) In a facility whose residents participate in regularly scheduled therapeutic programs outside the facility, such as school or sheltered workshops, the minimum hours of care that must be provided are reduced proportionately.
- 2) It is the responsibility of each facility to determine the staffing needed to meet the needs of its residents. It is the responsibility of the Department to verify that the staffing provided by the facility is sufficient to meet the needs of the residents.
- 3) The following figures apply to hours of care actually provided and not to hours of care scheduled to be provided.
- 4) Each resident shall be provided with a minimum of four hours of personal and habilitative care each day. The director of nursing shall not be included in hours of personal and habilitative care provided.
- 5) The facility shall schedule personnel in such a manner that the needs of all residents are met. At least 30 percent of the minimum required hours shall be on the day shift, at least 30 percent of the minimum required hours shall be on the evening shift, and at least ten percent of the minimum required hours shall be on the night shift. The total percentage must add up to 100 percent each day. At least 12.5 percent of the hours of care provided on each shift must be by licensed nursing personnel. Licensed nursing personnel may be used to replace other personal and habilitative care staff if the needs of the residents are met by such staffing.
- 6) Staffing Calculations
- A) When computing the number of staff hours needed per shift, any figure less than .25 will be dropped from the computation and any figure of .75 or higher will go to the next higher number. Figures in between .25 and .75 will require at least the amount of coverage indicated: .25 will require two hours of coverage; .3 will require two and one half hours of coverage; .5 will require four hours of coverage; .6 will require five hours of coverage; .74 will require six hours of coverage; .75 or higher will require eight hours of coverage.
- B) These hours may be provided by: a part-time person working those hours only on that shift each day; a full-time person working a shift that spans two regular shifts (such as from 12 noon to 8 P.M.); or by an additional full-time person on the shift. However, these figures are minimal staffing requirements, and it is recommended that a full-time person be provided.
- b) In addition to the other requirements of this Section, the following also apply:

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- 1) There shall be a licensed nurse designated as being in charge of nursing services on all shifts when neither the director of nursing nor assistant director of nursing are on duty. If registered nurses and licensed practical nurses are on duty on the same shift, this person shall be a registered nurse. This person may be a charge nurse on one of the nursing units.
- 2) There shall be at least one person awake, dressed and on duty at all times in each separate nursing unit.
- 3) There shall be at least one registered nurse on duty seven days per week, 8 consecutive hours.
- 4) There shall be at least one registered nurse or licensed practical nurse on duty at all times.
- 5) There shall be at least one registered nurse or licensed practical nurse on duty on each floor housing residents.
- 6) The need for licensed nurses on each nursing unit will be determined on an individual case basis, dependent upon the individual situation. If such additional staffing is required, the Department will inform the facility in writing of the kind and amount of additional staff time required, and the reason why it is needed.
- 7) The need for an additional licensed nurse to serve as a "house supervisor" will be determined on an individual case basis. If the Department determines that there is a need for a registered nurse on certain shifts whose sole duties will consist of supervising the nursing services of the facility, the Department shall notify the facility in writing when and why such a person is needed. This person shall not perform the duties of a charge nurse while serving as the "house supervisor".

(Source: Amended at 19 Ill. Reg. _____, effective _____)

SUBPART F: RESTRAINTS AND AND-SAPBBV-BRVIERS, BEHAVIOR MANAGEMENT,
AND-BEHAVIOR-EMERGNCIES

Section 390.1310 Restraints and-Safety-Devices

- a) The facility shall have there-shall-be written policies controlling ~~which-are-followed-in-the-operation-of-the-facility~~ covering the use of physical restraints including, but not limited to leg restraints, arm restraints, hand mitts, soft ties or vests, wheelchair safety bars and lap trays, and all facility practices that meet the definition of a physical restraint, such as tucking in a sheet so tightly that a bed-bound resident cannot move; bed rails used to keep a resident from getting out of bed; chairs that prevent rising; or placing a resident who uses a wheel chair so close to a wall that the wall prevents the resident from rising. Adaptive equipment is not considered a restraint. Wrist bands or devices on clothing that trigger electronic

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- 1) alarms to warn staff that a resident is leaving a room do not, in and of themselves, restrict freedom of movement and should not be considered as physical restraints and-confinements. (b)
- b) Restraints--and--confinements--as--defined--in--Section--390.1310--shall--not--be--used--except--in--an--emergency--or--as--an--integral--part--of--an--Individual--Behavior--Program--ordered--by--a--physician--the--emergency--use--of--mechanical--or--chemical--restraints--requires--the--written--order--of--a--physician--(See--subsection--(c)--of--this--Section)--Neither--confinements--nor--restraints--shall--be--used--to--punish--or--discipline--a--resident--or--as--a--convenience--to--the--staff--(Safety--devices--such--as--vests--or--elbow--cuffs--mittens--enclosed--cribs--or--playpens--or--other--devices--ordered--by--the--physician--may--be--applied--to--prevent--a--resident--from--falling--or--injurying--himself)--(b)
- c) There--shall--be--written--policies--which--are--followed--in--the--operation--of--the--facility--controlling--the--use--of--safety--devices--these--policies--shall--be--developed--by--the--medical--advisory--committee--with--participation--by--nursing--and--administrative--personnel--(b)
- d) All--safety--devices--shall--be--used--only--upon--written--order--of--the--attending--physician--and--for--the--safety--and--security--of--the--residents--in--an--emergency--a--telephone--order--is--acceptable--if--taken--as--specified--in--Section--390.1310--(b)
- e) The--reasons--for--ordering--and--using--safety--devices--shall--be--recorded--in--the--residents--clinical--record--the--recordings--shall--contain--ongoing--evaluations--of--need--for--the--safety--devices--and--the--measures--being--taken--to--reduce--or--eliminate--the--need--for--their--use--(b)
- f) A--resident--wearing--a--safety--device--shall--have--it--released--for--a--few--minutes--at--least--once--every--two--hours--or--more--often--if--necessary--unless--otherwise--ordered--by--a--physician--Residents--in--orthopedic--chairs--shall--be--removed--from--such--chairs--for--at--least--ten--minutes--every--two--hours--or--more--often--and--assisted--to--ambulate--if--necessary--and--their--physical--condition--permits--The--resident's--position--shall--be--changed--at--these--times--and--good--skin--care--or--other--nursing--needs--provided--(b)
- g) No physical restraints safety-device with locks shall be used. (b)
- c) Physical restraints shall not be used on a resident for the purpose of discipline or convenience.
- d) The use of chemical restraints is prohibited.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 390.1312 Nonemergency Use of Physical Restraints

- a) The use of high chairs, play pens, cribs or youth beds for children up until their fourth birthday shall not be considered a physical restraint.
- b) Physical restraints shall only be used when required to treat the resident's medical symptoms or as a therapeutic intervention, as

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ordered by a physician, and based on:

- 1) the assessment of the resident's capabilities and an evaluation and trial of less restrictive alternatives that could prove effective;
- 2) the assessment of a specific physical condition or medical treatment that requires the use of physical restraints, and how the use of physical restraints will assist the resident in reaching his or her highest practicable physical, mental or psychosocial well being;
- 3) consultation with appropriate health professionals, such as rehabilitative nurses and occupational or physical therapists, which indicates that the use of less restrictive measures or therapeutic interventions has proven ineffective; and
- 4) demonstration by the care planning process that using a physical restraint as a therapeutic intervention will promote the care and services necessary for the resident to attain or maintain the highest practicable physical, mental, or psychosocial well being.

(Section 2-106(c) of the Act)

- c) A physical restraint may be used only with the informed consent of the resident, the resident's guardian, or other authorized representative. (Section 2-106(c) of the Act) Informed consent includes information about potential negative outcomes of physical restraint use, including incontinence, decreased range of motion, decreased ability to ambulate, symptoms of withdrawal or depression, or reduced social contact.

- d) The informed consent may authorize the use of a physical restraint only for a specified period of time. The effectiveness of the physical restraint in treating medical symptoms or as a therapeutic intervention and any negative impact on the resident shall be assessed by the facility throughout the period of time the physical restraint is used.

- e) After 50 percent of the period of physical restraint use authorized by the informed consent has expired, but not less than five days before it has expired, information about the actual effectiveness of the physical restraint in treating the resident's medical symptoms or as a therapeutic intervention and about any actual negative impact on the resident shall be given to the resident, resident's guardian, or other authorized representative before the facility secures an informed consent for an additional period of time. Information about the effectiveness of the physical restraint program and about any negative impact on the resident shall be provided in writing.

- f) A physical restraint may be applied only by staff trained in the application of the particular type of restraint. (Section 2-106(d) of the Act)

- g) Whenever a period of use of a physical restraint is initiated, the resident shall be advised of his or her right to have a person or organization of his or her choosing, including the Guardianship and Advocacy Commission, notified of the use of the physical restraint.

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whether or not the guardian approved the notice. A period of use is initiated when a physical restraint is applied to a resident for the first time under a new or renewed informed consent for the use of physical restraints. If the resident so chooses, the facility shall make the notification within 24 hours, including any information about the period of time that the physical restraint is to be used. Whenever the Guardianship and Advocacy Commission is notified that a resident has been restrained, it shall contact the resident to determine the circumstances of the restraint and whether further action is warranted. (Section 2-106(e) of the Act) If the resident requests that the Guardianship and Advocacy Commission be contacted, the facility shall provide the following information, in writing, to the Guardianship and Advocacy Commission:

- 1) the reason the physical restraint was needed;
- 2) the type of physical restraint that was used;
- 3) the interventions utilized or considered prior to physical restraint and the impact of these interventions;
- 4) the length of time the physical restraint was to be applied; and
- 5) the name and title of the facility person who should be contacted for further information.

- h) Whenever a physical restraint is used on a resident whose primary mode of communication is sign language, the resident shall be permitted to have his or her hands free from restraint for brief periods each hour, except when this freedom may result in physical harm to the resident or others. (Section 2-106(f) of the Act)

- i) The plan of care shall contain a schedule or plan of rehabilitative/habilitative training to enable the most feasible progressive removal of physical restraints or the most practicable progressive use of less restrictive means to enable the resident to attain or maintain the highest practicable physical, mental or psychosocial well being.

- j) A resident wearing a physical restraint shall have it released for a few minutes at least once every two hours, or more often if necessary. During these times, residents shall be assisted with ambulation, as their condition permits, and provided a change in position, skin care and nursing care, as appropriate.

- k) No form of seclusion shall be permitted.

(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 390.1314 Emergency Use of Physical Restraints

- a) If a resident needs emergency care, physical restraints may be used for brief periods to permit treatment to proceed unless the facility has notice that the resident has previously made a valid refusal of the treatment in question. (Section 2-106(c) of the Act)
- b) For this Section only, "emergency care" means the unforeseen need for

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immediate treatment inside or outside the facility that is necessary

- to:
- 1) save the resident's life;
 - 2) prevent the resident from doing serious mental or physical harm to himself/herself; or
 - 3) prevent the resident from injuring another individual.
- c) If a resident needs emergency care and other less restrictive interventions have proven ineffective, a physical restraint may be used briefly to permit treatment to proceed. The attending physician shall be contacted immediately for orders. If the attending physician is not available, the facility's advisory physician or Medical Director shall be contacted. If a physician is not immediately available, a nurse with supervisory responsibility may approve, in writing, the use of physical restraints. A confirming order, which may be obtained by telephone, shall be obtained from the physician as soon as possible, but no later than within eight hours. The effectiveness of the physical restraint in treating medical symptoms or as a therapeutic intervention and any negative impact on the resident shall be assessed by the facility throughout the period of time the physical restraint is used. The resident must be in view of a qualified staff person at all times until either the resident has been examined by a physician or the physical restraint has been removed. The resident's needs for toileting, ambulation, hydration, nutrition, repositioning, and skin care must be met while the physical restraint is being used.
- d) The emergency use of a physical restraint must be documented in the resident's record, including:
- 1) the behavior incident that prompted the use of the physical restraint;
 - 2) the date and times the physical restraint was applied and released;
 - 3) the name and title of the person responsible for the application and supervision of the physical restraint;
 - 4) the action by the resident's physician upon notification of the physical restraint use;
 - 5) the new or revised orders issued by the physician;
 - 6) the effectiveness of the physical restraint in treating medical symptoms or as a therapeutic intervention and any negative impact on the resident; and
 - 7) the date of the scheduled care planning conference or the reason a care planning conference is not needed, in light of the resident's emergency need for physical restraints.
- e) The facility's use of physical restraints shall comply with Sections 390.1312(e), (f), (g), and (j).

(Source: Added at 19 Ill. Reg. _____, effective _____)

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Section 390.1316 Unnecessary, Psychotropic, and Antipsychotic Drugs

- a) A resident shall not be given unnecessary drugs in accordance with Section 390. Appendix C. In addition, an unnecessary drug is any drug used:
- 1) in an excessive dose, including in duplicative therapy;
 - 2) for excessive duration;
 - 3) without adequate monitoring;
 - 4) without adequate indications for its use; or
 - 5) in the presence of adverse consequences that indicate the drugs should be reduced or discontinued. (Section 2-106.1(a) of the Act)
- b) Psychotropic medication shall not be prescribed without the informed consent of the resident, the resident's guardian, or other authorized representative. (Section 2-106.1(b) of the Act) Additional informed consent is not required for reductions in dosage level or deletion of a specific medication. The informed consent may provide for a medication administration program of sequentially increased doses of combination of medications to establish the lowest effective dose that will achieve the desired therapeutic outcome. Side effects of medications shall be described.
- c) Residents shall not be given antipsychotic drugs unless antipsychotic drug therapy is necessary, as documented in the resident's comprehensive assessment, to treat a specific or suspected condition as diagnosed and documented in the clinical record or to rule out the possibility of one of the conditions in accordance with Section 390. Appendix C.
- d) Residents who use antipsychotic drugs shall receive gradual dose reductions and behavior interventions, unless clinically contraindicated, in an effort to discontinue these drugs in accordance with Section 390. Appendix C.
- e) For the purposes of this Section:
- 1) "Duplicative drug therapy" means any drug therapy that duplicates a particular drug effect on the resident without any demonstrative therapeutic benefit. For example, any two or more drugs, whether from the same drug category or not, that have a sedative effect.
 - 2) "Psychotropic medication" means medication that is used for or listed as used for antipsychotic, antidepressant, antimanic or antianxiety behavior modification or behavior management purposes in the latest editions of the AMA Drug Evaluations (Drug Evaluation Subscription, American Medical Association, Vols. I-III, Summer 1993), United States Pharmacopoeia Dispensing Information Volume I (USP DI) (United States Pharmacopoeial Convention, Inc., 15th Edition, 1995), American Hospital Formulary Service Drug Information 1995 (American Society of Health Systems Pharmacists, 1995), or the Physician's Desk Reference (Medical Economics Data Production Company, 49th

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- f) Each Individual Behavior Program shall be available in the appropriate program and living areas, and to the resident and his family.
- g) The facility shall not permit residents to discipline other residents. (b)
- h) The facility shall maintain records of significant maladaptive behavior and the action taken by staff as a consequence of such behavior.
- i) When food is provided as part of a behavior management program, its effect on nutrition and dental status shall be determined and considered. Such programs shall not employ, or result in, denial of a nutritionally adequate diet. (b)

j) When restriction is used for behavior management--(B)

1) it may be utilized only as an integral part of an individual Behavior Program and shall be designed to lead to a less restrictive way of managing and ultimately eliminating the maladaptive behavior for which the restriction was employed except in an emergency;

2) the facility shall obtain a written order approving the individual Behavior Program from a physician; the order shall describe the restrictions to be used;

3) the events leading up to the need for restriction shall be recorded in the resident's clinical record;

4) the resident's record shall document the fact that less restrictive methods of modifying or replacing the behavior have been systematically tried and have been demonstrated to be ineffective;

5) the informed consent of the resident, resident's guardian or parent of a minor resident, as applicable, to the use of the individual Behavior Program shall be obtained before implementation of the program;

6) the individual Behavior Program shall, in addition to any other requirements of this Section 390.1320, specify the behavior to be modified and shall include explicit provision for gradual diminishing of the use of restriction and ultimate discontinuation of usage;

7) Any individual Behavior Program utilizing chemical restraints shall specify a time limit not to exceed 30 days; the program may be renewed only on the order of a physician for periods not to exceed 30 days at any one time;

8) Each use of restriction shall be recorded immediately in the resident's clinical record;

9) Aversive stimuli may be used only in an extreme last resort situation in which withholding it would be contrary to the best interest of the resident because his behavior is dangerous to himself or others and is extremely detrimental to his development; the resident's record shall document the fact that less restrictive methods have been systematically tried and have

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Edition, 1995) or the United States Food and Drug Administration approved package insert for the psychotropic medication.

- 3) "Antipsychotic drug" means a neuroleptic drug that is helpful in the treatment of psychosis and has a capacity to ameliorate thought disorders.

(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 390.1320 Behavior Management

- a) Behavior management shall be conducted under the direction of a psychologist or Qualified Mental Retardation Professional with a behavior science education and one year of experience in behavior management.

b) The facility shall have written policies and procedures concerning behavior management as needed to meet the needs of the residents. These policies shall be directed to maximizing the growth and development of the resident and shall emphasize positive approaches. These policies shall contain at a minimum:

- 1) A hierarchy of available methods from least to most restrictive.
- 2) Policies that define the use of Individual Behavior Programs, the persons qualified to authorize them, and a mechanism for monitoring and controlling their use.

c) An Individual Behavior Program shall be developed for each resident, if deemed necessary by the facility's psychologist or Qualified Mental Retardation Professional. All Individual Behavior Programs shall be designed to facilitate the development of adaptive behaviors, replace maladaptive behaviors with those that are more adaptive and appropriate, and channel maladaptive behavior into more appropriate modes of expression. They shall utilize the least restrictive methods that are effective. When positive reinforcement is used solely for the purpose of improving adaptive or acceptable behavior, an Individual Behavior Program is not required. (b)

d) Each Individual Behavior Program shall be reviewed and approved by the interdisciplinary team, which must include, for this review, a psychologist or a Qualified Mental Retardation Professional with a behavior science education and one year of experience in behavior management.

e) Each Individual Behavior Program shall specify:

- 1) the behavior objectives of the program;
- 2) the method to be used;
- 3) the schedule for the use of the method;
- 4) the person responsible for the program;
- 5) the data to be collected to assess progress toward the objectives.

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been-demonstrated-to-be-ineffective--(B)

- 1)† When time out is used for behavior management: †B) It may be utilized only as an integral part of an Individual Behavior Program.
- 2) It may not include the use of seclusion.
- 3) The resident may be retained in a given area for a brief period of time. An open-top enclosure in which the resident can move freely and can see either over or through the sides may be utilized. A chair or mat must be provided, as appropriate.
- 4) Time out for more than 15 minutes at any one time, for more than a total of 30 minutes in any one hour period, or for more than a total of two hours in any eight hour period, shall be effected only upon the written order, on each occasion, of the facility administrator or other designated supervisory or professional personnel. Consecutive periods of time out separated by less than five minutes shall be considered as a single period of time out. The order shall state in detail the reason for the time out and may not be for a period of more than one hour. No order for further time out may be written unless the facility administrator or designated supervisory personnel on duty at the time has reviewed the situation with the staff and has documented the need for another period of time.
- 5) When time out exceeds 15 minutes at any one time, the situation shall be reviewed at least every 15 minutes by the facility administrator or designated supervisory personnel.
- 6) A staff member shall be assigned to visually check on each person in time out at least every 15 minutes.
- 7) A record must be kept for each period of time out. Each time a resident is placed in time out, entries shall be made, either in a separate log kept for this purpose or in the resident's record. For time out periods of 15 minutes or less, the following entries shall be made: name, number of periods of time out in a specified block of time (not to exceed four hours). For time out periods of more than 15 minutes, the following entries shall be made: resident's name, time in, time out, name of authorized person signing written order for time out, reason resident was placed in time out, and signature of staff member requesting time out. Staff member assigned to 15 fifteen-†B) minute checks must sign the log as the time checks are made, recording the time and the resident's condition.
- 8) All safety precautions shall be observed so that the resident patient cannot injure himself while in "time out." †A)†B)†
- k)† When behavior management is used to alleviate significant, chronic maladaptive behavior in a resident, it may be utilized only as an integral part of an Individual Behavior Program.
- l)† No form of seclusion shall be permitted. †B)

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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action 390.1330 Behavior Emergencies (Repealed)

- a) There shall be written policies which are followed in the operation of a facility when a behavior emergency occurs. †B)
- b) If a resident becomes unmanageable, the attending physician shall be contacted immediately and the resident shall be examined by the physician as soon as possible. †B)
- c) Mechanical or chemical restraints shall be used in a behavior emergency only upon a physician's order. The resident shall be examined by the physician within 48 hours from the time the restraint has commenced. When the physician is not immediately available, a nurse with supervisory responsibility or the facility administrator may approve in writing the use of mechanical restraints. A confirming physician within eight hours and a written order shall be obtained from the physician within 48 hours. If the original approval was issued by someone who is not a Registered Nurse, the approval is counter-signed by a Registered Nurse within eight hours or the restraint is discontinued. †B)
- † If no order for a restraint shall be valid for more than 48 hours.
- 2) Restraints and confinements may be applied only by personnel trained in proper application and observation of the restraint. †B)

(Source: Repealed at 19 Ill. Reg. _____, effective _____)

SUBPART G: MEDICATIONS

action 390.1420 Conformance with Physician's Orders

- a) All medications including cathartics, headache remedies, or vitamins shall be given only upon the written order of a physician. All such orders shall have the handwritten signature of the physician (Rubber stamp signatures are not acceptable.) These medications shall be given as prescribed by the physician and at the designated time. Telephone orders may be taken by a registered nurse or licensed practical nurse. All such orders shall be immediately written on the resident's clinical record, or a "telephone order form" and signed by the nurse taking the order. These orders shall be countersigned by the physician within 10 days.
- b) The staff pharmacist or consultant pharmacist shall review the medical record, including physician orders and laboratory test results, at least monthly and, based on their clinical experience and

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judgment, and Section 390-Appendix C, determine if there are irregularities which would cause potential adverse reactions, allergies, interactions, contraindications, or ineffectiveness. This review shall be done at the facility. Documentation of this review must be entered in the resident's clinical record. Any irregularities noted shall be reported to the attending physician, the advisory physician, and the administrator.

- c) A medication order not specifically limiting the time or number of doses shall be automatically stopped in accordance with written policy approved by the pharmaceutical advisory committee.
- d) The resident's attending physician shall be notified of medications about to be stopped so that the physician may promptly renew such orders to avoid interruption of the resident's therapeutic regimen.
- e) All medications to be released to the resident, or person responsible for his care, at the time of discharge or when the resident is going to be temporarily out of the facility at medication time (such as when attending a vocational training program or on a week-end pass), shall be approved by the physician. A notation concerning their disposition shall be made on the resident's clinical record.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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Section 390-APPENDIX C Guidelines for the Use of Various DrugsA. Long-Acting Benzodiazepine Drugs

Long-acting benzodiazepine drugs should not be used in residents unless an attempt with a shorter-acting drug (i.e., those listed under B. Benzodiazepine or Other Anxiolytic/Sedative Drugs, and under C. Drugs Used for Sleep Induction) has failed.

After an attempt with a shorter-acting benzodiazepine drug has failed, a long-acting benzodiazepine drug should be used only if:

1. Evidence exists that other possible reasons for the resident's distress have been considered and ruled out;
2. Its use results in maintenance or improvement in the resident's functional status;
3. Daily use is less than four continuous months unless an attempt at a gradual dose reduction is unsuccessful; and
4. Its use is less than, or equal to, the following listed total daily doses unless higher doses (as evidenced by the resident's response and/or the resident's clinical record) are necessary for the maintenance or improvement in the resident's functional status.

EXAMPLES OF LONG-ACTING BENZODIAZEPINES

<u>Generic</u>	<u>Brand</u>	<u>Daily Oral Dosage</u>
Flurazepam	(Dalmane)	15mg
Chlordiazepoxide	(Librium)	20mg
Clorazepate	(Tranxene)	15mg
Prazepam	(Centrax)	15mg
Diazepam	(Valium)	5mg
Clonazepam	(Klonopin)	1.5mg
Quazepam	(Doral)	7.5mg

NOTES:

When diazepam is used for neuromuscular syndromes (e.g., cerebral palsy, tardive dyskinesia or seizure disorders), this Guideline does not apply.

When long-acting benzodiazepine drugs are being used to withdraw residents from short-acting benzodiazepine drugs, this Guideline does not apply.

When clonazepam is used in bi-polar disorders, management of tardive dyskinesia, nocturnal myoclonus or seizure disorders, this Guideline does not apply.

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The daily doses listed under Long-Acting Benzodiazepines are doses (usually administered in divided doses) for "geriatric" or "elderly" residents. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it was necessary for the maintenance or improvement in the resident's functional status.

For drugs in this category, a gradual dose reduction should be attempted at least twice within one year before one can conclude that the gradual dose reduction is "clinically contraindicated."

B. Benzodiazepine or other Anxiolytic/Sedative Drugs

Use of the listed Anxiolytic/Sedative drugs for purposes other than sleep induction should only occur if:

1. Evidence exists that other possible reasons for the resident's distress have been considered and ruled out;
2. Use results in a maintenance or improvement in the resident's functional status;
3. Daily use (at any dose) is less than four continuous months unless an attempt at a gradual dose reduction is unsuccessful;
4. Use is for one of the following indications as defined by the Diagnostic and Statistical Manual of Mental Disorders:

Generalized anxiety disorder;
Organic mental syndromes (including dementia) with associated agitated states which are quantitatively and objectively documented and which constitute sources of distress or dysfunction to the resident or represent a danger to the resident or others;

Panic disorder;
Symptomatic anxiety that occurs in residents with another diagnosed psychiatric disorder (e.g., depression, adjustment disorder); and

5. Use is equal to or less than the following listed total daily doses, unless higher doses (as evidenced by the resident's response and/or the resident's clinical record) are necessary for the improvement or maintenance in the resident's functional status.

EXAMPLES OF SHORT-ACTING BENZODIAZEPINES

Generic	Brand	Daily Oral Dosage
Lorazepam	(Ativan)	2mg
Oxazepam	(Serax)	30mg
Alprazolam	(Xanax)	0.75mg
Halazepam	(Paxipam)	40mg

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EXAMPLES OF OTHER ANXIOLYTIC AND SEDATIVE DRUGS

Generic	Brand	Daily Oral Dosage
Diphenhydramine	(Benadryl)	50mg
Hydroxyzine	(Atarax, Vistaril)	50mg
Chloral Hydrate	(Many Brands)	750mg

NOTES:

The daily doses listed under Short-Acting Benzodiazepines are doses (usually administered in divided doses) for "geriatric" or "elderly" residents. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it was necessary for the maintenance or improvement in the resident's functional status.

For drugs in this category, a gradual dose reduction should be attempted at least twice within one year before one can conclude that a gradual dose reduction is "clinically contraindicated."

Diphenhydramine, hydroxyzine and chloral hydrate are not necessarily drugs of choice for treatment of anxiety disorders. They are only listed here in the event of their potential use.

C. Drugs Used for Sleep Induction

Drugs used for sleep induction should only be used if:

1. Evidence exists that other possible reasons for insomnia (e.g., depression, pain, noise, light, caffeine) have been ruled out;
2. The use of a drug to induce sleep results in the maintenance or improvement of the resident's functional status;
3. Daily use of the drug is less than ten continuous days unless an attempt at a gradual dose reduction is unsuccessful;
4. The dose of the drug is equal to or less than the following listed doses unless higher doses (as evidenced by the resident's response and/or the resident's clinical record) are necessary for maintenance or improvement in the resident's functional status.

EXAMPLES OF HYPNOTIC DRUGS

Generic	Brand	Oral Dosage
Temazepam	(Restoril)	15mg
Triazolam	(Halcion)	0.125mg
Lorazepam	(Ativan)	1mg

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Oxazepam	(Serax)	15mg
Alprazolam	(Xanax)	0.25mg
Halazepam	(Paxipam)	20mg
Diphenhydramine	(Benadryl)	25mg
Hydroxyzine	(Atarax, Vistaril)	50mg
Chloral Hydrate	(Many Brands)	500mg

NOTES:

Diminished sleep in the elderly is not necessarily pathological.

The doses listed are doses for "geriatric" or "elderly" residents. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it was necessary for the maintenance or improvement in the resident's functional status.

Diphenhydramine, hydroxyzine, and chloral hydrate are not necessarily drugs of choice for sleep disorders. They are listed here only in the event of their potential use.

For drugs in this category, a gradual dose reduction should be attempted at least three times within six months before one can conclude that a gradual dose reduction is "clinically contraindicated."

D. Miscellaneous Hypnotic/Sedative/Anxiolytic Drugs

The initiation of the following hypnotic/sedative/anxiolytic drugs should not occur in any dose for any resident. (See Notes for exceptions.) Residents currently using these drugs or residents admitted to the facility while using these drugs should receive gradual dose reductions as part of a plan to eliminate or modify the symptoms for which they are prescribed. A gradual dose reduction should be attempted at least twice within one year before one can conclude that the gradual dose reduction is clinically contraindicated. Newly admitted residents using these drugs may have a period of adjustment before a gradual dose reduction is attempted.

(Caution: The rapid withdrawal of these drugs might result in severe physiological withdrawal symptoms.)

EXAMPLES OF BARBITURATES

<u>Generic</u>	<u>Brand</u>
Amobarbital	(Amytal)
Amobarbital-Secobarbital	(Tuinal)
Aprorbarbital	(Alurate)
Butabarbital	(Butisol)

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Pentobarbital	(Nembutal)
Phenobarbital	(Luminal)
Barbiturates with other drugs	(e.g., Fiorinal)

EXAMPLES OF MISCELLANEOUS HYPNOTIC/SEDATIVE/ANXIOLYTICS

<u>Generic</u>	<u>Brand</u>
Ethchlorvynol	(Placidyl)
Glutethimide	(Doriden)
Meprobamate	(Equinal, Miltown)
Methovlon	(Noludar)
Paraldehyde	(Many Brands)

NOTES:

Amobarbital is excepted from this Guideline when used as a single dose sedative for dental or medical procedures.

Phenobarbital is excepted from this Guideline when used in the treatment of seizure disorders.

When Miscellaneous Hypnotic/Sedative/Anxiolytic Drugs are used outside these Guidelines, they may be unnecessary drugs as a result of inadequate indications for use.

E. Antipsychotic Drugs

The following examples of antipsychotic drugs should not be used in excess of the listed doses for residents with organic mental syndromes (e.g., dementia, delirium) unless higher doses (as evidenced by the resident's response or the resident's clinical record) are necessary to maintain or improve the resident's functional status.

EXAMPLES OF ANTIPSYCHOTIC DRUGS FOR RESIDENTS WITH ORGANIC MENTAL SYNDROMES

<u>Generic</u>	<u>Brand</u>	<u>Daily Oral Dosage</u>
Chlorpromazine	(Thorazine)	75mg
Promazine	(Sparine)	150mg
Triflupromazine	(Vesprin)	20mg
Thioridazine	(Mellaril)	75mg
Mesoridazine	(Serentil)	25mg
Acetophenazine	(Tindal)	20mg
Perphenazine	(Trilafon)	9mg
Fluphenazine	(Prolixin, Permitil)	4mg

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Trifluoperazine	(Stelazine)	8mg
Chlorprothixene	(Taractan)	75mg
Thiothixene	(Navane)	7mg
Haloperidol	(Haldol)	4mg
Molindone	(Moban)	10mg
Loxapine	(Loxitane)	10mg
Clozapine	(Clozaril)	50mg
Prochlorperazine	(Compazine)	10mg

NOTES:

The doses listed are daily doses (usually administered in divided doses) for residents with organic mental syndromes. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it is necessary for the maintenance or improvement in the resident's functional status.

The "specific conditions" for use of antipsychotic drugs are listed under this Guideline under G.

The dose of prochlorperazine may be exceeded for short term (seven day) treatment of nausea and vomiting.

When antipsychotic drugs are used outside these Guidelines, they may be deemed unnecessary drugs as a result of excessive doses.

F. Monitoring for Antipsychotic Drug Side Effects

The facility assures that residents who are undergoing antipsychotic drug therapy receive adequate monitoring for significant side effects of such therapy with emphasis on the following:

1. Tardive dyskinesia;
2. Postural (orthostatic) hypotension;
3. Cognitive/behavior impairment;
4. Akathisia; and
5. Parkinsonism.

When antipsychotic drugs are used without monitoring for these side effects, they may be unnecessary drugs because of inadequate monitoring.

G. Use of Antipsychotic Drugs

Antipsychotic drugs should not be used unless the clinical record documents that the resident has one or more of the following "specific conditions":

1. Schizophrenia;

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2. Schizo-affective disorder;
3. Delusional disorder;
4. Psychotic mood disorders (including mania and depression with psychotic features);
5. Acute psychotic episodes;
6. Brief reactive psychosis;
7. Schizophreniform disorder;
8. Atypical psychosis;
9. Tourette's disorder;
10. Huntington's disease;
11. Organic mental syndromes (including dementia and delirium) with associated psychotic and/or agitated behaviors:

Which have been quantitatively (number of episodes) and objectively (e.g., biting, kicking, scratching) documented; Which are not caused by preventable reasons; and Which are causing the resident to:

present a danger to her/himself or to others,

Continuously cry, scream, yell, or pace if these specific behaviors cause an impairment in functional capacity, or Experience psychotic symptoms (hallucinations, paranoia, delusions) not exhibited as dangerous behaviors or as crying, screaming, yelling, or pacing but which cause the resident distress or impairment in functional capacity; or Short term (seven days) symptomatic treatment of hiccups, nausea, vomiting or pruritus.

Antipsychotics should not be used if one or more of the following is/are the only indication:

1. Wandering,
2. Poor self care,
3. Restlessness,
4. Impaired memory,
5. Anxiety,
6. Depression (without psychotic features),
7. Insomnia,
8. Unsociability,
9. Indifference to surroundings,
10. Fidgeting,
11. Nervousness,
12. Uncooperativeness, or
13. Agitated behaviors which do not represent danger to the resident or others.

As needed or P.R.N. antipsychotic drugs should only be used when the resident has a "specific condition" for which antipsychotic drugs are indicated (that is, points one through twelve above) and one of the following circumstances exists:

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1. The as needed or P.R.N. dose is being used to titrate the resident's total daily dose up to achieve symptom relief, or down to avoid side effects, or down to effect a gradual dose reduction, or
2. The as needed or P.R.N. dose is being used to manage unexpected harmful behaviors that cannot be managed without antipsychotic drugs. Under this circumstance, a P.R.N. antipsychotic drug may be used no more than twice in any seven day period without an assessment of the cause for the resident's behavioral symptoms, and the development of a plan of care designed to attempt to reduce or eliminate the cause(s) for the harmful behavior.

H. Antipsychotic Drug Gradual Dose Reduction

Residents must, unless clinically contraindicated, have gradual dose reductions of the antipsychotic drug. The gradual dose reduction should be under close supervision. If the gradual dose reduction is causing an adverse effect on the resident and the gradual dose reduction is discontinued, documentation of this decision and the reasons for it should be included in the clinical record. Gradual dose reductions consist of tapering the resident's daily dose to determine if the resident's symptoms can be controlled by a lower dose or to determine if the dose can be eliminated altogether.

"Behavioral interventions" means modification of the resident's behavior or the resident's environment, including staff approaches to care, to the largest degree possible to accommodate the resident's behavioral symptoms.

"Clinically contraindicated" means that a resident with a "specific condition" (as listed in these Guidelines under G, 1-11) who has had a history of recurrence of psychotic symptoms (e.g., delusions, hallucinations) which have been stabilized with a maintenance dose of an antipsychotic drug without incurring significant side effects (e.g., tardive dyskinesia) should not receive gradual dose reductions. In residents with organic mental syndromes (e.g., dementia, delirium), "clinically contraindicated" means that a gradual dose reduction has been attempted twice in one year and that attempt resulted in the return of symptoms for which the drug was prescribed to a degree that a cessation in the gradual dose reduction, or a return to previous dose levels, was necessary.

I. Exceptions to These Guidelines

The facility shall have the opportunity to provide a rationale for the use of drugs prescribed outside these Guidelines. The facility may not justify the use of a drug prescribed outside these Guidelines solely on the basis of "the doctor ordered it." The rationale must be based on sound risk-benefit analysis of the resident's problem and potential adverse effects of the drug.

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The unnecessary drug criterion of "adequate indications for use" does not simply mean that the physician's order must include a reason for using the drug (although such order writing is encouraged). It means that the resident lacks a valid clinical reason for use of the drug as evidenced by the evaluation of some, but not necessarily all, of the following: resident assessment, plan of care, reports of significant change, progress notes, laboratory reports, professional consults, drug orders, observation and interview of the resident, and other information.

In determining whether an antipsychotic drug is without a "specific condition" or that "gradual dose reduction and behavioral interventions" have not been performed, the facility shall justify why using the drug outside these Guidelines is in the best interest of the resident.

Examples of evidence that would support a justification of why a drug is being used outside these Guidelines but in the best interests of the resident may include, but are not limited to:

1. A physician's note indicating, for example, that the dosage, duration, indication, and monitoring are clinically appropriate; this note and the reasons why they are clinically appropriate; this note should demonstrate that the physician has carefully considered the risk/benefit to the resident in using drugs outside these Guidelines;
2. A medical or psychiatric consultation or evaluation (e.g., Geriatric Depression Scale) that confirms the physician's judgment that use of a drug outside these Guidelines is in the best interest of the resident;
3. Physician, nursing, or other health professional documentation indicating that the resident is being monitored for adverse consequences or complications of the drug therapy;
4. Documentation confirming that previous attempts at dosage reduction have been unsuccessful;
5. Documentation (such as MDS documentation) showing resident's subjective or objective improvement, or maintenance of function while taking the medication;
6. Documentation showing that a resident's decline or deterioration is evaluated by the interdisciplinary team to determine whether a particular drug, or a particular dose, or duration of therapy, may be the cause;
7. Documentation showing why the resident's age, weight, or other factors would require a unique drug dose or drug duration, indication, monitoring; and
8. Other evidence which may be appropriate.

(Source: Added at 19 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Sheltered Care Facilities Code2) Code Citation: 77 Ill. Adm. Code 3303) Section Numbers: Proposed Action:

330.330 Amendments
 330.1140 Repealer
 330.1145 New Section
 330.1150 New Section
 330.1155 New Section
 Appendix E New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved: Changes to Section 330.330 (Definitions) include: the addition of definitions for the term Adaptive Equipment; Chemical Restraint; Convenience; Discipline; and Physical Restraint; the deletion of the definitions of Restraint of a Resident; and Safety Device. These changes are in response to Public Act 88-413 (effective August 20, 1993).

Section 330.1140 (Behavior Emergencies) is being repealed.

A new Section 330.1145 entitled "Restraint" is being added in response to P.A. 88-413. This Section requires facilities to have written policies controlling the use of restraints; prohibits the use of restraints with locks; states that physical restraints shall only be used in an emergency as specified in Section 330.1142; prohibits the use of physical restraints on a resident for the purpose of discipline or convenience.

A new Section 330.1150 entitled "Emergency Use of Restraints" is being added. This Section defines "emergency care," establishes procedures for the use of restraints in emergency situations, and sets forth requirements for documentation of the use of restraints in the resident record. Provisions concerning informed consent, staff training, and resident rights are also included. The rules also prohibit any form of seclusion.

A new Section 330.1155 entitled "Unnecessary, Psychotropic, and Antipsychotic Drugs" is being added. The rules sets forth the circumstances in which the use of a drug would be "unnecessary"; defines the terms "duplicative drug therapy," "psychotropic medication," and "antipsychotic drug"; and includes provisions for informed consent, documentation, and dose reductions and behavior interventions.

Section 330. Appendix E is added to include, as required by P.A. 88-413, the standards for unnecessary drugs contained in the interpretive guidelines issued by the U.S. Department of Health and Human Services for

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the purposes of administering Titles 18 and 19 of the Social Security Act. The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of the notice in the *Illinois Register*.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules, within 45 days after this issue of the *Illinois Register*, by writing to:

Ms. Gail M. DeVito
 Division of Governmental Affairs
 Illinois Department of Public Health
 535 West Jefferson Fifth Floor
 Springfield, Illinois 62761
 (217) 782-6187

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Long-term care facilities

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- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: Professional skills necessary to comply with existing requirements in this Part
- 13) Regulatory Agenda on which this rulemaking was summarized: Amendments implementing P.A. 88-413 were originally included in a rulemaking that was proposed on July 29, 1994. In response to a JCAR objection, these provisions were deleted from the rulemaking when it was adopted on July 29, 1995. These amendments differ from the July 29, 1994 proposal in the changes have been made in response to issues raised by JCAR.

The full text of the Proposed Amendment begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 330

SHELTERED CARE FACILITIES CODE

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330.130	License
330.140	Issuance of an Initial License For a New Facility
330.150	Issuance of an Initial License Due to a Change of Ownership
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330.165	Criteria for Adverse Licensure Actions
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330.175	Denial of Renewal of License
330.180	Revocation of License
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330.230	Information to be Made Available to the Public By the Licensee
330.240	Municipal Licensing
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330.270	Monitoring and Receivership
330.271	Presentation of Findings
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330.274	Determination of the Level of a Violation
330.276	Notice of Violation
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330.278	Plans of Correction
330.280	Reports of Correction
330.282	Conditions for Assessment of Penalties
330.284	Calculation of Penalties
330.286	Determination to Assess Penalties
330.288	Reduction or Waiver of Penalties
330.290	Quarterly List of Violators
330.300	Alcoholism Treatment Programs In Long-Term Care Facilities
330.310	Department May Survey Facilities Formerly Licensed
330.320	Waivers
330.330	Definitions
330.340	Incorporated and Referenced Materials

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SUBPART B: ADMINISTRATION

Section
330.510

Administrator

SUBPART C: POLICIES

Section

330.710 Resident Care Policies
330.720 Admission and Discharge Policies
330.730 Contract Between Resident and Facility
330.740 Residents' Advisory Council
330.750 General Policies
330.760 Personnel Policies
330.765 Initial Health Evaluation for Employees
330.770 Disaster Preparedness
330.780 Serious Incidents and Accidents

SUBPART D: PERSONNEL

Section

330.910 Personnel
330.913 Nursing and Personal Care Assistants (Repealed)
330.916 Student Interns (Repealed)
330.920 Consultation Services
330.930 Personnel Policies

SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

Section

330.1110 Medical Care Policies
330.1120 Personal Care
330.1125 Life Sustaining Treatments
330.1130 Communicable Disease Policies
330.1135 Tuberculin Skin Test Procedures
330.1140 Behavior Emergencies (Repealed)
330.1145 Restraints
330.1150 Emergency Use of Physical Restraints
330.1155 Unnecessary, Psychotropic, and Antipsychotic Drugs

SUBPART F: RESTORATIVE SERVICES

Section

330.1310 Activity Program
330.1320 Work Programs
330.1330 Written Policies for Restorative Services

SUBPART G: MEDICATIONS

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Section

330.1510 Medication Policies
330.1520 Administration of Medication
330.1530 Labeling and Storage of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

Section

330.1710 Resident Record Requirements
330.1720 Content of Medical Records
330.1730 Records Pertaining to Residents' Property
330.1740 Retention and Transfer of Resident Records
330.1750 Other Resident Record Requirements
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SUBPART I: FOOD SERVICE

Section

330.1910 Director of Food Services
330.1920 Dietary Staff in Addition to Director of Food Services
330.1930 Hygiene of Dietary Staff
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330.1970 Scheduling of Meals
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330.1990 Food Preparation and Service
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SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section

330.2210 Maintenance
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SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section

330.2410 Furnishings
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SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section

Codes

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330.2620 Water Supply
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SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW
SHELTERED CARE FACILITIES

Section
330.2810 Applicable Requirements (Repealed)
330.2820 Applicability of These Standards
330.2830 Submission of a Program Narrative
330.2840 New Constructions, Additions, Conversions, and Alterations
330.2850 Preparation and Submission of Drawings and Specifications
330.2860 First Stage Drawings
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330.3310 Applicable Requirements (Repealed)
330.3320 Applicability of These Standards
330.3330 Fire Protection
330.3340 Fire Department Service and Water Supply
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330.3380 Corridors
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SUBPART O: DESIGN AND CONSTRUCTION STANDARDS FOR
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330.3610 Site
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SUBPART P: FIRE PROTECTION STANDARDS FOR EXISTING
SHELTERED CARE FACILITIES

Section
330.3910 Fire Protection
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330.3930 Occupancy and Fire Areas
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330.3960 Exit and Fire Escape Lights and Directional Signs
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SUBPART Q: RESIDENT'S RIGHTS

Section
330.4210 General
330.4220 Medical and Personal Care Program
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330.4240 Abuse and Neglect
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330.4260 Residents' Funds
330.4270 Residents' Advisory Council
330.4280 Contract With Facility
330.4290 Private Right of Action
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SUBPART R: DAY CARE PROGRAMS

Section
330.4510 Day Care In Long-Term Care Facilities

APPENDIX A Interpretation, Components, and Illustrative Services for Sheltered Care Facilities
APPENDIX B Classification of Distinct Part of a Facility For Different Levels of Service (Repealed)
APPENDIX C Forms for Day Care in Long-Term Care Facilities
APPENDIX D Criteria for Activity Directors Who Need Only Minimal Consultation

APPENDIX E Guidelines for the Use of Various Drugs
TABLE A Disaster Preparedness Parameters -- Relative Humidity and Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act (210 ILCS 45).

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 807, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 933, effective July 28, 1980; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14547, effective November 8, 1982; amended at 6 Ill. Reg. 14681, effective November 15, 1982; amended at 7 Ill. Reg. 1963, effective January 28, 1983; amended at 7 Ill. Reg. 6973, effective May 17, 1983; amended at 7 Ill. Reg. 15825, effective November 15, 1983; amended at 8 Ill. Reg. 15596, effective August 15, 1984; amended at 8 Ill. Reg. 15941, effective August 17, 1984; codified at 8 Ill. Reg. 19790; amended at 8 Ill. Reg. 24241, effective November 28, 1984; amended at 8 Ill. Reg. 24696, effective December 7, 1984; amended at 9 Ill. Reg. 2952, effective February 25, 1985; amended at 9 Ill. Reg. 10974, effective July 1, 1985; amended at 11 Ill. Reg. 16879, effective October 1, 1987; amended at 12 Ill. Reg. 1017, effective December 24, 1987; amended at 12 Ill. Reg. 16870, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18939, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6562, effective April 17, 1989; amended at 13 Ill. Reg. 19580, effective December 1, 1989; amended at 14 Ill. Reg. 14928, effective October 1, 1990; amended at 15 Ill. Reg. 516, effective January 1, 1991; amended at 16 Ill. Reg. 651, effective January 1, 1992; amended at 16 Ill. Reg.

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14370, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2405, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8000, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15089, effective September 3, 1993; amended at 17 Ill. Reg. 16180, effective January 1, 1994; amended at 17 Ill. Reg. 19258, effective October 26, 1993; amended at 17 Ill. Reg. 19576, effective November 4, 1993; amended at 17 Ill. Reg. 21044, effective November 20, 1993; amended at 18 Ill. Reg. 1475, effective January 14, 1994; amended at 18 Ill. Reg. 15851, effective October 15, 1994; amended at 19 Ill. Reg. 11567, effective July 29, 1995; amended at 19 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 330.330 Definitions

~~The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:~~

Abuse - any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)

Abuse means:

Physical abuse refers to the infliction of injury on a resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual Assault.

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*Access - the right to:**Enter any facility;*

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act - as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity Program - a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior - the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment - a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 330.1145 as a physical restraint.

Addition - any construction attached to the original building which increases the area or cubic content of the building.

Adequate - enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning - a notice to a facility issued by the Department under Section 330.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in

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the facility violates the Act or the Department's rules, but is not a type A or type B violation.

Administrator - the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate - a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate - means:

With respect to a partnership, each partner thereof.

With respect to a corporation, each officer, director and stockholder thereof.

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

Aide or Orderly - any person providing direct personal care, training or habilitation services to residents.

Alteration - any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident - a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

Applicant - any person making application for a license. (Section 1-107 of the Act)

Appropriate - term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment - the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

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Audiologist - a person who is certified or is eligible for a certificate of clinical competence in audiology granted by the American Speech and Hearing Association under its requirements in effect on the publication of this provision or meets the educational requirements for certification, and is in the process of accumulating the supervised experience required for certification.

Autism - a syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave - an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel - all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement - when used in this Part, means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification - treatment to be used to establish or change behavior patterns.

Cerebral Palsy - a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX - the issuance of a document by the Department to the Department of Health and Human Services or the Department of Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse - a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

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Chemical Restraint - any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Child Care/Habilitation Aide - any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Community Alternatives - service programs in the community provided as an alternative to institutionalization.

Continuing Care Contract - a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract - a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience - the use of any restraint by the facility to control resident behavior or maintain a resident, that is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 330.1145 of this Part.

Corporal Punishment - painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident - failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist - any person licensed by the State of Illinois to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department - as used in this Part means the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide - any person who provides nursing, personal or rehabilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render

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medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability - means a severe, chronic disability of a person which:

is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

is manifested before the person attains age 22;

is likely to continue indefinitely;

results in substantial functional limitations in 3 or more of the following areas of major life activity:

*self-care,
receptive and expressive language,
learning,
mobility,
self-direction,
capacity for independent living, and
economic self-sufficiency; and*

reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801 of the Act)

Dietetic Service Supervisor - a person who:

is a qualified dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in

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food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in paragraphs (2), (3) or (4) of this definition.

Dietitian - a person who:

is eligible for registration by the American Dietetic Association; or

has a baccalaureate degree with major studies in food and nutrition, dietetics, and food service management, has one year of supervisory experience in the dietetic service of a health care institution, and participates annually in continuing dietetic education.

Direct Supervision - work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director - the Director of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service - the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge - the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline - any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part - an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the

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respective regulations governing the levels of services approved for the distinct part.

Emergency - a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Epilepsy - a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing Long-Term Care Facility - any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility, Intermediate Care - a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled - when used in this Part is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.

Facility or Long-Term Care Facility - a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5] or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 U.S.C.A. 1395 et seq. and 1936 et seq.). A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

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A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities thereof, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Mental Health and Developmental Disabilities as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]; or

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65]. (Section 1-113 of the Act)

Facility, Long-Term Care, for Residents Under 22 Years of Age - when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total rehabilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or developmental disabilities.

Facility, Sheltered Care - when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance and personal care.

Facility, Skilled Nursing - when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction

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with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility - having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full time - on duty a minimum of 36 hours, four days per week.

Goal - an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian - a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [75 ILCS 5]. (Section 1-114 of the Act)

Habilitation - an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health Services Supervisor - (Director of Nursing Service) the full-time Registered Nurse, or Licensed Practical Nurse, who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged - any facility which is operated: by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or, by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or, pursuant to a trust or endowment established for nonprofit, charitable purposes; and which provides maintenance, personal care, nursing or sheltered care to three or more residents, 90 percent of whom are 60 or more years of age.

Hospitalization - the care and treatment of a person in a hospital as

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an in-patient.

Individual Education Program (IEP) - a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) - a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Institutional Occupancy - when used in this Part means Health Care Facilities, Group (a), as defined in Chapter 10, paragraph 10-0001 of the Life Safety Code, National Fire Protection Association (1985 Edition).

Interdisciplinary Team - a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation Professional. The interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator - a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse - a person with a valid Illinois license to practice as a practical nurse.

Licensee - the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract - a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance - food, shelter, and laundry services. (Section 1-116 of the Act)

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Maladaptive Behavior - impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Medical Record Practitioner - a person who is eligible for certification as a registered record administrator (RRA) or an accredited record technician (ART), by the American Medical Record Association under its requirements; or is a graduate of a school of medical record science that is accredited jointly by the American Medical Association and the American Medical Record Association.

Mentally Retarded and Mental Retardation - subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property - using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory - unable to walk independently or without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mobile Resident - any resident who is able to move about either independently or with the aid of an assistive device such as a walker, crutches, a wheelchair, or a wheeled platform.

Monitor - a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect - a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or medical condition. This shall include any allegation where:

the alleged failure causing injury or deterioration is ongoing or repetitious; or

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a resident required medical treatment as a result of the alleged failure; or

the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility - any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization - the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

Nurse - a registered nurse or a licensed practical nurse as defined in the Illinois Nursing Act of 1987 (225 ILCS 65). (Section 1-118 of the Act)

Nursing Assistant - any person who provides nursing care or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care - a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit - a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective - an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

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Occupational Therapist, Registered (OTR) - a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].

Occupational Therapy Assistant - a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator - the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury - occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight - general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

Owner - the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person - any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

Personal Care - assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered - a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

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Physical Restraint - any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist Assistant - a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist - a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

Physician - any person licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Probationary License - an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist - a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist - a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Mental Retardation Professional - a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

Be a physician as defined in this Section.

Be a registered nurse as defined in this Section.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Qualified Professional - a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by

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eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

Reasonable Visiting Hours - any time between the hours of 10 A.M. and 8 P.M. daily. (Section 1-121 of the Act)

Registered Nurse - a person with a valid Illinois license to practice as a registered professional nurse under the Illinois Nursing Act of 1987.

Repeat Violation - For purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Reputable Moral Character - having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

Resident - person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director - the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative - a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care - a health care process designed to assist residents to attain and maintain the highest degree of function of which they

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are capable (physical, mental, and social).

Restraint--of--a--Resident---the--application--of--a--device--to--limit movements--

Room - a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Safety-Device---any equipment or protective device used on a bed, chair, or resident which prevents him from falling or otherwise injuring himself--Examples are--bedside rails, geriatric or adaptive chairs, a wide band, vest or sheet applied to prevent falling out of a bed or chair, and hand socks applied to prevent injuring one's self--

Sanitization - the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory - same as adequate.

Seclusion - the retention of a resident alone in a room with a door that the resident cannot open.

Self Preservation - the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

Sheltered Care - maintenance and personal care. (Section 1-124 of the Act)

Social Worker, Qualified - a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal - the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization - the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a Corporation - any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

Story - when used in this Part means that portion of a building between the upper surface of any floor and the upper surface of the

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floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

Student Intern - means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

an academic credit requirement in a high school or undergraduate institution, or

immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Compliance - meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 330.140(a)(3) and 330.150(a)(3).

Substantial Failure - the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 330.165(b)(1).

Sufficient - same as adequate.

Supervision - authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

Therapeutic Recreation Specialist - a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out - removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

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Title XVIII - Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX - Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer - a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Unit - an entire physically identifiable residence area having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective rules governing the approved levels of service.

Universal Progress Notes - a common record with periodic narrative documentation by all persons involved in resident care.

Valid License - a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

Section 330.1140 Behavior Emergencies (Repealed)

- a) If a resident becomes disturbed or unmanageable, the resident shall be examined by the resident's physician or psychiatrist. This medical examination shall be made promptly. (B)
- b) No form of seclusion shall be permitted.
- c) Restraints shall be used only in an emergency to protect the resident from harming himself or harming other residents, visitors or staff. If it is necessary to use restraints for this purpose, the attending physician shall be contacted immediately for his orders for this emergency. In the event the attending physician is not immediately

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(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 330.1150 Emergency Use of Physical Restraints

a) If a resident needs emergency care, physical restraints may be used for brief periods to permit treatment to proceed unless the facility has notice that the resident has previously made a valid refusal of treatment in question. (Section 2-106(c) of the Act)

b) For this Section only "emergency care" means the unforeseen need for immediate treatment inside or outside the facility that is necessary to:

- 1) save the resident's life;
 - 2) prevent the resident from doing serious mental or physical harm to himself/herself; or
 - 3) prevent the resident from injuring another individual.
- c) If a resident needs emergency care and other less restrictive interventions have proved ineffective, a physical restraint may be used briefly to permit treatment to proceed. The attending physician shall be contacted immediately for orders. If the attending physician is not available, the facility's advisory physician or medical director shall be contacted. If a physician is not immediately available, a nurse with supervisory responsibility may approve, in writing, the use of physical restraints. A confirming order, which may be obtained by telephone, shall be obtained from the physician as soon as possible, but no later than within eight hours. The effectiveness of the physical restraint in treating medical symptoms or as a therapeutic intervention and any negative impact on the resident shall be assessed by the facility throughout the period of time the physical restraint is used. The resident must be in view of a staff person at all times until either the resident has been examined by a physician or the physical restraint is removed. The resident's needs for toileting, ambulation, hydration, nutrition, repositioning, and skin care must be met while the temporary restraint is being used.

d) The emergency use of a physical restraint must be documented in the resident's record, including:

- 1) the behavior incident that prompted the use of the physical restraint;
- 2) the date and times the physical restraint was applied and released;
- 3) the name and title of the person responsible for the application and supervision of the physical restraint;
- 4) the action by the resident's physician upon notification of the physical restraint use;
- 5) the new or revised orders issued by the physician;
- 6) the effectiveness of the physical restraint in treating medical symptoms or as a therapeutic intervention and any negative impact

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~~available; the facility's advisory physician shall be contacted for such orders. This emergency use of restraints shall only be temporary and for a short period of time until other arrangements can be made to transfer the resident to an appropriate facility or until the resident can be restored through medical treatment to his normal behavior pattern. In a single emergency, restraints shall not be used for a period of more than four hours. If a restraint is used for more than two hours, it must be released for a few minutes at least once every two hours or more often if necessary. There must be those observations of the resident while a restraint is being used. No restraints with locking devices may be used. (B)~~

d) ~~the reason for using the restraint must be recorded in the resident's record and is retained in the facility for a short period for medical treatment; the attending physician must indicate the need for the use of a restraint in the resident's record; if the physician's order is a telephone order, it shall be immediately recorded on the resident's record and countersigned by the physician within 72 hours in the same manner as physician orders for medications in an emergency; there shall be written policies which are followed in the operation of the facility covering the use of restraints. (B)~~

(Source: Repealed at 19 Ill. Reg. _____, effective _____)

Section 330.1145 Restraints

a) The facility shall have written policies controlling the use of physical restraints including, but not limited to, leg restraints, arm restraints, hand muffs, soft ties or vests, wheelchair safety bars and lap trays, and all facility practices that meet the definition of a restraint, such as tucking in a sheet so tightly that a bed-bound resident cannot move; bed rails used to keep a resident from getting out of bed; chairs that prevent rising; or placing a resident who uses a wheelchair so close to a wall that the wall prevents the resident from rising. Adaptive equipment is not considered a physical restraint. Wrist bands or devices on clothing that trigger electronic alarms to warn staff that a resident is leaving a room do not, in and of themselves, restrict freedom of movement and should not be considered as physical restraints. The policies shall be followed in the operation of the facility and shall comply with the Act and this Part.

- b) No physical restraints with locks shall be used.
- c) Physical restraints shall only be used in an emergency as specified in Section 330.1150.
- d) Physical restraints shall not be used on a resident for the purposes of discipline or convenience.
- e) The use of chemical restraints is prohibited.

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on the resident; and

- 7) the date of the scheduled care planning conference or the reason a care planning conference is not needed, in light of the resident's emergency need for physical restraints.

e) A physical restraint may be applied only by staff trained in the application of the particular type of restraint. (Section 2-106(d) of the Act)

f) Whenever a period of use of a physical restraint is initiated, the resident shall be advised of his or her right to have a person or organization of his or her choosing, including the Guardianship and Advocacy Commission, notified of the use of the physical restraint. A period of use of a physical restraint is initiated when a physical restraint is applied to a resident for the first time. A recipient who is under guardianship may request that a person or organization of his or her choosing be notified of the physical restraint, whether or not the guardian approved the notice. If the resident so chooses, the facility shall make the notification within 24 hours, including, any information about the period of time that the physical restraint is to be used. Whenever the Guardianship and Advocacy Commission is notified that a resident has been restrained, it shall contact the resident to determine the circumstances of the restraint and whether further action is warranted. (Section 2-106(e) of the Act) If the resident requests that the Guardianship and Advocacy Commission be contacted, the facility shall provide the following information in writing to the Guardianship and Advocacy Commission:

- 1) the reason the physical restraint was needed;
- 2) the type of physical restraint that was used;
- 3) the interventions utilized or considered prior to physical restraint and the impact of these interventions;
- 4) the length of time the physical restraint was to be applied; and
- 5) the name and title of the facility person who should be contacted for further information.

g) Whenever a physical restraint is used on a resident whose primary mode of communication is sign language, the resident shall be permitted to have his or her hands free from restraint for brief periods each hour, except when this freedom may result in physical harm to the resident or others. (Section 2-106(f) of the Act)

h) No form of seclusion shall be permitted.

(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 330.1155 Unnecessary, Psychotropic, and Antipsychotic Drugs

a) A resident shall not be given unnecessary drugs in accordance with Section 330. Appendix E. In addition, an unnecessary drug is any drug used:

- 1) in an excessive dose, including in duplicative therapy;

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- 2) for excessive duration;
- 3) without adequate monitoring;
- 4) without adequate indications for its use; or
- 5) in the presence of adverse consequences that indicate the drugs should be reduced or discontinued. (Section 2-106.1(a) of the Act)

b) Psychotropic medication shall not be prescribed without the informed consent of the resident, the resident's guardian, or other authorized representative. (Section 2-106.1(b) of the Act) Additional informed consent is not required for reductions in dosage level or deletion of a specific medication. The informed consent may provide for a medication administration program of sequentially increased doses or a combination of medications to establish the lowest effective dose that will achieve the desired therapeutic outcome. Side effects of the medications shall be described.

c) Residents shall not be given antipsychotic drugs unless antipsychotic drug therapy is necessary, as documented in the resident's comprehensive assessment, to treat a specific or suspected condition as diagnosed and documented in the clinical record or to rule out the possibility of one of the conditions in accordance with Section 330. Appendix E.

d) Residents who use antipsychotic drugs shall receive gradual dose reductions and behavior interventions, in an effort to discontinue these drugs in accordance with Section 330. Appendix E unless clinically contraindicated.

e) For the purposes of this Section:

- 1) "Duplicative drug therapy" means any drug therapy that duplicates a particular drug effect on the resident without any demonstrative therapeutic benefit. For example, any two or more drugs, whether from the same drug category or not, that have a sedative effect.

2) "Psychotropic medication" means medication that is used for or listed as used for antipsychotic, antidepressant, anxiolytic or antianxiety behavior modification or behavior management purposes in the latest editions of the AWA Drug Evaluations (Drug Evaluation Substitution, American Medical Association, Vols. I-III, Summer 1993), United States Pharmacopoeia Dispensing Information Volume I (USP DI) (United States Pharmacopoeial Convention, Inc., 15th Edition, 1995), American Society of Health Systems Pharmacists, 1995), or the Physicians Desk Reference (Medical Economics Data Production Company, 49th Edition, 1995) or the United States Food and Drug Administration approved package insert for the psychotropic medication. (Section 2-106.1(b) of the Act)

- 3) "Antipsychotic drug" means a neuroleptic drug that is helpful in the treatment of psychosis and has a capacity to ameliorate thought disorders.

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(Source: Added at 19 Ill. Reg. _____, effective _____)

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Section 330.APPENDIX E Guidelines for the Use of Various Drugs

A. Long-Acting Benzodiazepine Drugs

Long-acting benzodiazepine drugs should not be used in residents unless an attempt with a shorter-acting drug (i.e., those listed under B. Benzodiazepine or Other Anxiolytic/Sedative Drugs, and under C. Drugs Used for Sleep Induction) has failed.

After an attempt with a shorter-acting benzodiazepine drug has failed, a long-acting benzodiazepine drug should be used only if:

1. Evidence exists that other possible reasons for the resident's distress have been considered and ruled out;
2. Its use results in maintenance or improvement in the resident's functional status;
3. Daily use is less than four continuous months unless an attempt at a gradual dose reduction is unsuccessful; and
4. Its use is less than, or equal to, the following listed total daily doses unless higher doses (as evidenced by the resident's response and/or the resident's clinical record) are necessary for the maintenance or improvement in the resident's functional status.

EXAMPLES OF LONG-ACTING BENZODIAZEPINES

Generic	Brand	Daily Oral
		Dosage
Flurazepam	(Dalmane)	15mg
Chlordiazepoxide	(Librium)	20mg
Clorazepate	(Tranxene)	15mg
Prizepam	(Centrax)	15mg
Diazepam	(Valium)	5mg
Clonazepam	(Klonopin)	1.5mg
Quazepam	(Doral)	7.5mg

NOTES:

When diazepam is used for neuromuscular syndromes (e.g., cerebral palsy, tardive dyskinesia or seizure disorders), this Guideline does not apply.

When long-acting benzodiazepine drugs are being used to withdraw residents from short-acting benzodiazepine drugs, this Guideline does not apply.

When clonazepam is used in bi-polar disorders, management of tardive dyskinesia, nocturnal myoclonus or seizure disorders, this Guideline does not apply.

EXAMPLES OF OTHER ANXIOLYTIC AND SEDATIVE DRUGS

Generic	Brand	Daily Oral Dosage
Diphenhydramine	(Benadryl)	50mg
Hydroxyzine	(Atarax, Vistaril)	50mg
Chloral Hydrate	(Many Brands)	750mg

NOTES:

The daily doses listed under Short-Acting Benzodiazepines are doses (usually administered in divided doses) for "geriatric" or "elderly" residents. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it was necessary for the maintenance or improvement in the resident's functional status.

For drugs in this category, a gradual dose reduction should be attempted at least twice within one year before one can conclude that a gradual dose reduction is "clinically contraindicated."

Diphenhydramine, hydroxyzine and chloral hydrate are not necessarily drugs of choice for treatment of anxiety disorders. They are only listed here in the event of their potential use.

C. Drugs Used for Sleep Induction

Drugs used for sleep induction should only be used if:

1. Evidence exists that other possible reasons for insomnia (e.g., depression, pain, noise, light, caffeine) have been ruled out;
2. The use of a drug to induce sleep results in the maintenance or improvement of the resident's functional status;
3. Daily use of the drug is less than ten continuous days unless an attempt at a gradual dose reduction is unsuccessful;
4. The dose of the drug is equal to or less than the following listed doses unless higher doses (as evidenced by the resident's response and/or the resident's clinical record) are necessary for maintenance or improvement in the resident's functional status.

EXAMPLES OF HYPNOTIC DRUGS

Generic	Brand	Oral Dosage
Temazepam	(Restoril)	15mg
Triazolam	(Halcion)	0.125mg
Lorazepam	(Ativan)	1mg

The daily doses listed under Long-Acting Benzodiazepines are doses (usually administered in divided doses) for "geriatric" or "elderly" residents. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it was necessary for the maintenance or improvement in the resident's functional status.

For drugs in this category, a gradual dose reduction should be attempted at least twice within one year before one can conclude that the gradual dose reduction is "clinically contraindicated."

B. Benzodiazepine or other Anxiolytic/Sedative Drugs

Use of the listed Anxiolytic/Sedative drugs for purposes other than sleep induction should only occur if:

1. Evidence exists that other possible reasons for the resident's distress have been considered and ruled out;
2. Use results in a maintenance or improvement in the resident's functional status;
3. Daily use (at any dose) is less than four continuous months unless an attempt at a gradual dose reduction is unsuccessful;
4. Use is for one of the following indications as defined by the Diagnostic and Statistical Manual of Mental Disorders:
 Generalized anxiety disorder;

Organic mental syndromes (including dementia) with associated agitated states which are quantitatively and objectively documented and which constitute sources of distress or dysfunction to the resident or represent a danger to the resident or others;

Panic disorder;
 Symptomatic anxiety that occurs in residents with another diagnosed psychiatric disorder (e.g., depression, adjustment disorder); and

5. Use is equal to or less than the following listed total daily doses, unless higher doses (as evidenced by the resident's response and/or the resident's clinical record) are necessary for the improvement or maintenance in the resident's functional status.

EXAMPLES OF SHORT-ACTING BENZODIAZEPINES

Generic	Brand	Daily Oral Dosage
Lorazepam	(Ativan)	2mg
Oxazepam	(Serax)	30mg
Alprazolam	(Xanax)	0.75mg
Halazepam	(Paxipam)	40mg

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Oxazepam	(Serax)	15mg
Alprazolam	(Xanax)	0.25mg
Halazepam	(Paxipam)	20mg
Diphenhydramine	(Benadryl)	25mg
Hydroxyzine	(Atarax, Vistaril)	50mg
Chloral Hydrate	(Many Brands)	500mg

NOTES:

Diminished sleep in the elderly is not necessarily pathological.

The doses listed are doses for "geriatric" or "elderly" residents. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it was necessary for the maintenance or improvement in the resident's functional status.

Diphenhydramine, hydroxyzine, and chloral hydrate are not necessarily drugs of choice for sleep disorders. They are listed here only in the event of their potential use.

For drugs in this category, a gradual dose reduction should be attempted at least three times within six months before one can conclude that a gradual dose reduction is "clinically contraindicated."

D. Miscellaneous Hypnotic/Sedative/Anxiolytic Drugs

The initiation of the following hypnotic/sedative/anxiolytic drugs should not occur in any dose for any resident. (See Notes for exceptions.) Residents currently using these drugs or residents admitted to the facility while using these drugs should receive gradual dose reductions as part of a plan to eliminate or modify the symptoms for which they are prescribed. A gradual dose reduction should be attempted at least twice within one year before one can conclude that the gradual dose reduction is clinically contraindicated. Newly admitted residents using these drugs may have a period of adjustment before a gradual dose reduction is attempted.

(Caution: The rapid withdrawal of these drugs might result in severe physiological withdrawal symptoms.)

EXAMPLES OF BARBITURATES

<u>Generic</u>	<u>Brand</u>
Amobarbital	(Amytal)
Amobarbital-Secobarbital	(Tuinal)
Aprobarbital	(Alurate)
Butobarbital	(Butisol)

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Pentobarbital	(Nembutal)
Phenobarbital	(Luminal)
Barbiturates with other drugs	(e.g., Fiorinal)

EXAMPLES OF MISCELLANEOUS HYPNOTIC/SEDATIVE/ANXIOLYTICS

<u>Generic</u>	<u>Brand</u>
Ethchlorvynol	(Placidyl)
Glutethimide	(Doriden)
Meprobamate	(Equinal, Miltown)
Methprylon	(Noludar)
Paraldehyde	(Many Brands)

NOTES:

Amobarbital is excepted from this Guideline when used as a single dose sedative for dental or medical procedures.

Phenobarbital is excepted from this Guideline when used in the treatment of seizure disorders.

When Miscellaneous Hypnotic/Sedative/Anxiolytic Drugs are used outside these Guidelines, they may be unnecessary drugs as a result of inadequate indications for use.

E. Antipsychotic Drugs

The following examples of antipsychotic drugs should not be used in excess of the listed doses for residents with organic mental syndromes (e.g., dementia, delirium) unless higher doses (as evidenced by the resident's response or the resident's clinical record) are necessary to maintain or improve the resident's functional status.

EXAMPLES OF ANTIPSYCHOTIC DRUGS FOR RESIDENTS WITH ORGANIC MENTAL SYNDROMES

<u>Generic</u>	<u>Brand</u>	<u>Daily Oral Dosage</u>
Chlorpromazine	(Thorazine)	75mg
Promazine	(Sparine)	150mg
Triflupromazine	(Vesprin)	20mg
Thioridazine	(Mellaril)	75mg
Mesoridazine	(Serentil)	25mg
Acetophenazine	(Tindal)	20mg
Perphenazine	(Trilafon)	8mg

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Fluphenazine	(Prolixin, Permitil)	4mg
Trifluoperazine	(Stelazine)	8mg
Chlorprothixene	(Taractan)	75mg
Thiothixene	(Navane)	7mg
Haloperidol	(Haldol)	4mg
Molindone	(Moban)	10mg
Loxapine	(Loxitane)	10mg
Clozapine	(Clozaril)	50mg
Prochlorperazine	(Compazine)	10mg

NOTES:

The doses listed are daily doses (usually administered in divided doses) for residents with organic mental syndromes. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it is necessary for the maintenance or improvement in the resident's functional status.

The "specific conditions" for use of antipsychotic drugs are listed under this Guideline under G.

The dose of prochlorperazine may be exceeded for short term (seven day) treatment of nausea and vomiting.

When antipsychotic drugs are used outside these Guidelines, they may be deemed unnecessary drugs as a result of excessive doses.

F. Monitoring for Antipsychotic Drug Side Effects

The facility assures that residents who are undergoing antipsychotic drug therapy receive adequate monitoring for significant side effects of such therapy with emphasis on the following:

1. Tardive dyskinesia;
2. Postural (orthostatic) hypotension;
3. Cognitive/behavior impairment;
4. Akathisia; and
5. Parkinsonism.

When antipsychotic drugs are used without monitoring for these side effects, they may be unnecessary drugs because of inadequate monitoring.

G. Use of Antipsychotic Drugs

Antipsychotic drugs should not be used unless the clinical record documents that the resident has one or more of the following "specific conditions":

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1. Schizophrenia;
2. Schizo-affective disorder;
3. Delusional disorder;
4. Psychotic mood disorders (including mania and depression with psychotic features);
5. Acute psychotic episodes;
6. Brief reactive psychosis;
7. Schizophreniform disorder;
8. Atypical psychosis;
9. Tourette's disorder;
10. Huntington's disease;
11. Organic mental syndromes (including dementia and delirium) with associated psychotic and/or agitated behaviors:

Which have been quantitatively (number of episodes) and objectively (e.g., biting, kicking, scratching) documented;

Which are not caused by preventable reasons; and

Which are causing the resident to:

Present a danger to her/himself or to others;

- Continuously cry, scream, yell, or pace if these specific behaviors cause an impairment in functional capacity, or
- Experience psychotic symptoms (hallucinations, paranoia, delusions) not exhibited as dangerous behaviors or as crying, screaming, yelling, or pacing but which cause the resident distress or impairment in functional capacity; or
- Short term (seven days) symptomatic treatment of hiccups, nausea, vomiting or pruritus.

Antipsychotics should not be used if one or more of the following is/are the only indication:

1. Wandering,
2. Poor self care,
3. Restlessness,
4. Impaired memory,
5. Anxiety,
6. Depression (without psychotic features),
7. Insomnia,
8. Unsociability,
9. Indifference to surroundings,
10. Fidgeting,
11. Nervousness,
12. Uncooperativeness, or
13. Agitated behaviors which do not represent danger to the resident or others.

As needed or P.R.N. antipsychotic drugs should only be used when the resident has a "specific condition" for which antipsychotic drugs are indicated (that is, points one through twelve above) and one of the

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following circumstances exists:

1. The as needed or P.R.N. dose is being used to titrate the resident's total daily dose up to achieve symptom relief, or down to avoid side effects, or down to effect a gradual dose reduction, or
2. The as needed or P.R.N. dose is being used to manage unexpected harmful behaviors that cannot be managed without antipsychotic drugs. Under this circumstance, a P.R.N. antipsychotic drug may be used no more than twice in any seven day period without an assessment of the cause for the resident's behavioral symptoms, and the development of a plan of care designed to attempt to reduce or eliminate the cause(s) for the harmful behavior.

H. Antipsychotic Drug Gradual Dose Reduction

Residents must, unless clinically contraindicated, have gradual dose reductions of the antipsychotic drug. The gradual dose reduction should be under close supervision. If the gradual dose reduction is causing an adverse effect on the resident and the gradual dose reduction is discontinued, documentation of this decision and the reasons for it should be included in the clinical record. Gradual dose reductions consist of tapering the resident's daily dose to determine if the resident's symptoms can be controlled by a lower dose or to determine if the dose can be eliminated altogether.

"Behavioral interventions" means modification of the resident's behavior or the resident's environment, including staff approaches to care, to the largest degree possible to accommodate the resident's behavioral symptoms.

"Clinically contraindicated" means that a resident with a "specific condition" (as listed in these Guidelines under G, 1-11) who has had a history of recurrence of psychotic symptoms (e.g., delusions, hallucinations) which have been stabilized with a maintenance dose of an antipsychotic drug without incurring significant side effects (e.g., tardive dyskinesia) should not receive gradual dose reductions. In residents with organic mental syndromes (e.g., dementia, delirium), "clinically contraindicated" means that a gradual dose reduction has been attempted twice in one year and that attempt resulted in the return of symptoms for which the drug was prescribed to a degree that a cessation in the gradual dose reduction, or a return to previous dose levels, was necessary.

I. Exceptions to These Guidelines

The facility shall have the opportunity to provide a rationale for the use of drugs prescribed outside these Guidelines. The facility may not justify the use of a drug prescribed outside these Guidelines solely on the basis of "the doctor ordered it." The rationale must be based on sound risk-benefit analysis of the resident's problem and potential adverse effects of the

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drug.

The unnecessary drug criterion of "adequate indications for use" does not simply mean that the physician's order must include a reason for using the drug (although such order writing is encouraged). It means that the resident lacks a valid clinical reason for use of the drug as evidenced by the evaluation of some, but not necessarily all, of the following: resident assessment, plan of care, reports of significant change, progress notes, laboratory reports, professional consults, drug orders, observation and interview of the resident, and other information.

In determining whether an antipsychotic drug is without a "specific condition" or that "gradual dose reduction and behavioral interventions" have not been performed, the facility shall justify why using the drug outside these Guidelines is in the best interest of the resident.

Examples of evidence that would support a justification of why a drug is being used outside these Guidelines but in the best interests of the resident may include, but are not limited to:

1. A physician's note indicating, for example, that the dosage, duration, indication, and monitoring are clinically appropriate, and the reasons why they are clinically appropriate; this note should demonstrate that the physician has carefully considered the risk/benefit to the resident in using drugs outside these Guidelines;
2. A medical or psychiatric consultation or evaluation (e.g., Geriatric Depression Scale) that confirms the physician's judgment that use of a drug outside these Guidelines is in the best interest of the resident;
3. Physician, nursing, or other health professional documentation indicating that the resident is being monitored for adverse consequences or complications of the drug therapy;
4. Documentation confirming that previous attempts at dosage reduction have been unsuccessful;
5. Documentation (such as MDS documentation) showing resident's subjective or objective improvement, or maintenance of function while taking the medication;
6. Documentation showing that a resident's decline or deterioration is evaluated by the interdisciplinary team to determine whether a particular drug, or a particular dose, or duration of therapy, may be the cause;
7. Documentation showing why the resident's age, weight, or other factors would require a unique drug dose or drug duration, indication, monitoring; and
8. Other evidence which may be appropriate.

(Source: Added at 19 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code

2) Code Citation: 77 Ill. Adm. Code 300

3) Section Numbers: Proposed Action:

300.330	Amendments
300.680	Amendments
300.682	New Section
300.684	New Section
300.686	New Section
300.1040	Repealer
300.1210	Amendments
300.1620	Amendments
Appendix F	New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved: Changes to Section 300.330 (Definitions) include: the addition of definitions for the terms Adaptive Equipment; Chemical Restraint; Convenience; Discipline; and Physical Restraint; the deletion of the definitions of Restraint of a Resident; and Safety Device. These changes are in response to Public Act 88-413 (effective August 20, 1993).

Section 300.680 (Restraints and Safety Devices) is being amended in response to PA 88-413, which extensively amended the Nursing Home Care Act in regard to the use of physical and chemical restraints and drug treatment. The Act requires the Department, by rule, to designate certain devices as restraints and to adopt the standards for unnecessary drugs contained in the federal Interpretive Guidelines. Section 300.680 requires facilities to have policies concerning the use of restraints; lists devices and practices considered to be restraints; deletes use of the term "safety devices".

Section 300.682 is being added to set forth requirements for the nonemergency use of restraints. These include provisions for the use of physical or chemical restraints; consent of the resident, the resident's guardian, or other authorized representative; authorization of the use of restraints for a specific period of time; application of restraints by trained staff; care planning for progressive removal of restraint or progressive use of less restrictive means; periodic release of restraints and provision of care; and prohibition of the use of any form of seclusion.

Section 300.684 is added to address the emergency use of restraints. The rule defines "Emergency care"; sets forth requirements for documentation of the emergency use of a restraint in the resident record; includes

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procedures for physician's orders and care of the resident; references other provisions of the rules that must be followed in emergency use of restraints.

Section 300.686 is a new Section entitled "Unnecessary, Psychotropic and Antipsychotic Drugs". The rule sets forth the circumstances in which the use of a drug would be "unnecessary"; defines the terms "duplicative drug therapy," "psychotropic medication," and "antipsychotic drug"; and includes provisions for informed consent, documentation, and does reductions and behavior interventions.

Section 300.1040 (Behavior Emergencies) is being repealed.

Section 300.1210 is amended to clarify the precautions that must be taken to assure the safety of residents.

Section 300.1620 is amended to add a reference to Appendix F, "Guidelines for the Use of Various Drugs" in the subsection concerning review of medication orders.

Section 300.Appendix F is added to include, as required by PA 88-413, the standards for unnecessary drugs contained in the interpretive guidelines issued by the U.S. Department of Health and Human Services for the purpose of administering Titles 18 and 19 of the Social Security Act.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of the notice in the *Illinois Register*.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules, within 45 days after this issue of the *Illinois*

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Register, by writing to:

Gail M. Devito
Division of Governmental Affairs
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-6187

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. Devito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Skilled nursing and intermediate care facilities

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: Professional skills necessary to comply with existing requirements in this Part.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: Amendments implementing PA 88-413 were originally included in a rulemaking that was proposed on July 29, 1994. In response to a JCAR objection, those provisions were deleted from the rulemaking when it was adopted on July 29, 1995. These amendments differ from the July 29, 1994 proposal in that changes have been made in response to issues raised by JCAR.

The full text of the Proposed Amendment begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 300

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

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300.110	General Requirements
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300.130	Licensee
300.140	Issuance of an Initial License for a New Facility
300.150	Issuance of an Initial License Due to a Change of Ownership
300.160	Issuance of a Renewal License
300.165	Criteria for Adverse License Actions
300.170	Denial of Initial License
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300.180	Revocation of License
300.190	Experimental Program Conflicting With Requirements
300.200	Inspections, Surveys, Evaluations and Consultation
300.210	Filing an Annual Attested Financial Statement
300.220	Information to Be Made Available to the Public By the Department
300.230	Information to Be Made Available to the Public By the Licensee
300.240	Municipal Licensing
300.250	Ownership Disclosure
300.260	Issuance of Conditional Licenses
300.270	Monitor and Receivership
300.271	Presentation of Findings
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300.274	Determination of the Level of a Violation
300.276	Notice of Violation
300.277	Administrative Warning
300.278	Plans of Correction
300.280	Reports of Correction
300.282	Conditions for Assessment of Penalties
300.284	Calculation of Penalties
300.286	Determination to Assess Penalties
300.288	Reduction or Waiver of Penalties
300.290	Quarterly List of Violators
300.300	Alcoholism Treatment Programs In Long-Term Care Facilities
300.310	Department May Survey Facilities Formerly Licensed
300.320	Waivers
300.330	Definitions
300.340	Incorporated and Referenced Materials

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Section	
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300.630	Contract Between Resident and Facility
300.640	Residents' Advisory Council
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300.655	Initial Health Evaluation for Employees
300.660	Nursing Assistants
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300.670	Disaster Preparedness
300.680	Restraints and Safety-Devices
300.682	Nonemergency Use of Physical Restraints
300.684	Emergency Use of Physical Restraints
300.686	Unnecessary, Psychotropic, and Antipsychotic Drugs
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SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

SUBPART F: NURSING AND PERSONAL CARE

Section	
300.1210	General Requirements for Nursing and Personal Care
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300.1240 Additional Requirements

SUBPART G: RESIDENT CARE SERVICES

Section

300.1410 Activity Program
300.1420 Specialized Rehabilitation Services
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SUBPART H: MEDICATIONS

Section

300.1610 Medication Policies and Procedures
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Section

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Section

300.2610 Codes
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SUBPART N: DESIGN AND CONSTRUCTION STANDARDS
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Section

300.2810 Applicability of These Standards
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300.2860 Nursing Unit
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300.2880 Therapy and Personal Care
300.2890 Service Departments
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SUBPART O: DESIGN AND CONSTRUCTION STANDARDS
FOR EXISTING INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section

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300.3030 Preparation of Drawings and Specifications
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300.3070 Living, Dining, Activities Rooms
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SUBPART P: RESIDENT'S RIGHTS

Section
 300.3210 General
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SUBPART Q: SPECIALIZED LIVING FACILITIES FOR THE MENTALLY ILL

Section
 300.3410 Application of Other Divisions of These Minimum Standards
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300.3600 Record Keeping
 300.3610 Food Service
 300.3620 Furnishings, Equipment and Supplies (New and Existing Facilities)
 300.3630 Design and Construction Standards (New and Existing Facilities)

SUBPART R: DAYCARE PROGRAMS

Section
 300.3710 Day Care in Long-Term Care Facilities

APPENDIX A Interpretation, Components, and Illustrative Services for Intermediate Care Facilities and Skilled Nursing Facilities
 APPENDIX B Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
 APPENDIX C Federal Requirements Regarding Patients'/Residents' Rights
 APPENDIX D Forms for Day Care in Long-Term Care Facilities
 APPENDIX E Criteria for Activity Directors Who Need Only Minimal Consultation

APPENDIX F Guidelines for the Use of Various Drugs

TABLE A Sound Transmission Limitations in New Skilled Nursing and Intermediate Care Facilities
 TABLE B Pressure Relationships and Ventilation Rates of Certain Areas for New Intermediate Care Facilities and Skilled Nursing Facilities
 TABLE C Construction Types and Sprinkler Requirements for Existing Skilled Nursing Facilities/Intermediate Care Facilities
 TABLE D Disaster Preparedness Parameters - Relative Humidity and Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, P. 1066, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, P. 311, effective July 28, 1980; emergency amendment at 6 Ill. Reg. 3229, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6454, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 11631, effective September 14, 1982; amended at 6 Ill. Reg. 14550 and 14554, effective November 8, 1982; amended at 6 Ill. Reg. 14684, effective November 15, 1982; amended at 7 Ill. Reg. 285, effective December 22, 1982; amended at 7 Ill. Reg. 1972, effective January 28, 1983; amended at 7 Ill. Reg. 8579, effective July 11, 1983; amended at 7 Ill. Reg. 15831, effective November 10, 1983; amended at 7 Ill. Reg. 15864, effective November 15, 1983; amended at 7 Ill. Reg. 16992, effective December 14, 1983; amended at 8 Ill. Reg. 15599, 15603, and 15606, effective August 15, 1984; amended at 8 Ill. Reg. 15947, effective August 17, 1984; amended at 8 Ill. Reg. 16999, effective September 5, 1984; codified at 8 Ill. Reg. 19766; amended at 8 Ill. Reg. 24186, effective November 29, 1984; amended at 8 Ill. Reg. 24668, effective December 7, 1984; amended at 8 Ill.

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Reg. 25102, effective December 14, 1984; amended at 9 Ill. Reg. 132, effective December 26, 1984; amended at 9 Ill. Reg. 4087, effective March 15, 1985; amended at 9 Ill. Reg. 11049, effective July 1, 1985; amended at 11 Ill. Reg. 16927, effective October 1, 1987; amended at 12 Ill. Reg. 1052, effective December 24, 1987; amended at 12 Ill. Reg. 16811, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18477, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 4684, effective March 24, 1989; amended at 13 Ill. Reg. 5134, effective April 1, 1989; amended at 13 Ill. Reg. 20089, effective December 1, 1989; amended at 14 Ill. Reg. 14950, effective October 1, 1990; amended at 15 Ill. Reg. 554, effective January 1, 1991; amended at 16 Ill. Reg. 681, effective January 1, 1992; amended at 16 Ill. Reg. 5977, effective March 27, 1992; amended at 16 Ill. Reg. 17089, effective November 3, 1992; emergency amendment at 17 Ill. Reg. 2420, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8026, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15106, effective September 3, 1993; amended at 17 Ill. Reg. 16194, effective January 1, 1994; amended at 17 Ill. Reg. 19279, effective October 26, 1993; amended at 17 Ill. Reg. 19604, effective November 4, 1993; amended at 17 Ill. Reg. 21058, effective November 20, 1993; amended at 18 Ill. Reg. 1491, effective January 14, 1994; amended at 18 Ill. Reg. 15868, effective October 15, 1994; amended at 19 Ill. Reg. 11600, effective July 29, 1995; amended at 19 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 300.330 Definitions

The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

Abuse - any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)

Abuse means:

Physical abuse refers to the infliction of injury on a resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless

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of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.

Access - the right to:

Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act - as used in this Part, the Nursing Home Care Act (210 ILCS 45).

Activity Program - a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior - the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment - a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 300.680 of this Part as a physical restraint.

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Addition - any construction attached to the original building which increases the area or cubic content of the building.

Adequate - enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning - a notice to a facility issued by the Department under Section 300.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a type A or type B violation.

Administrator - the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate - a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate - means:

With respect to a partnership, each partner thereof.

With respect to a corporation, each officer, director and stockholder thereof.

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

Aide or Orderly - any person providing direct personal care, training or habilitation services to residents.

Alteration - any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident - a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

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Applicant - any person making application for a license. (Section 1-107 of the Act)

Appropriate - term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment - the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist - a person who is certified or is eligible for a certificate of clinical competence in audiology granted by the American Speech and Hearing Association under its requirements in effect on the publication of this provision or meets the educational requirements for certification and is in the process of accumulating the supervised experience required for certification.

Autism - a syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave - an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel - all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement - when used in this Part, means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification - treatment to be used to establish or change behavior patterns.

Cerebral Palsy - a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

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Certification for Title XVIII and XIX - the issuance of a document by the Department to the Department of Health and Human Services or the Department of Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse - a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint - Any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Child Care/Habilitation Aide - any person who provides nursing, personal or rehabilitative care to residents of Licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Professional Regulation to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Community Alternatives - service programs in the community provided as an alternative to institutionalization.

Continuing Care Contract - a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract - a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience - the use of any restraint by the facility to control resident behavior or maintain a resident, which is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 300.680 of this Part.

Corporal Punishment - painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident - failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

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Dentist - any person licensed to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department - as used in this Part means the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide - any person who provides nursing, personal or rehabilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability - means a severe, chronic disability of a person which:

is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

is manifested before the person attains age 22;

is likely to continue indefinitely;

results in substantial functional limitations in 3 or more of the following areas of major life activity:

self-care,

receptive and expressive language,

learning,

mobility,

self-direction,

capacity for independent living, and

economic self-sufficiency; and

reflects the person's need for combination and sequence of special, interdisciplinary or generic care treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801 of the Act)

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Dietetic Service Supervisor - a person who:

is a qualified dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in paragraphs (2), (3) or (4) of this definition.

Dietitian - a person who:

is eligible for registration by the American Dietetic Association; or

has a baccalaureate degree with major studies in food and nutrition, dietetics, and food service management, has one year of supervisory experience in the dietetic service of a health care institution, and participates annually in continuing dietetic education.

Direct Supervision - work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director - the Director of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service - the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

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Discharge - the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline - any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part - an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency - a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Epilepsy - a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing Long-Term Care Facility - any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility, Intermediate Care - a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled - when used in this Part, is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.

Facility or Long-Term Care Facility - a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5], or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or

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developmental disabilities.

Facility, Sheltered Care - when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance and personal care.

Facility, Skilled Nursing - when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post-acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility - having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time - means on duty a minimum of 36 hours, four days per week.

Goal - an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian - a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5]. (Section 1-114 of the Act)

Habilitation - an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health Services Supervisor - (Director of Nursing Service) the full-time Registered Nurse, or Licensed Practical Nurse, who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

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management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 U.S.C.A. 1395 et seq. and 1936 et seq.). A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities thereof, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Mental Health and Developmental Disabilities as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]; or

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65]. (Section 1-113 of the Act)

Facility, Long-Term Care, for Residents Under 22 Years of Age - when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total habilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or

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Home for the Aged - any facility which is operated: by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or, by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or, pursuant to a trust or endowment established for nonprofit, charitable purposes; and which provides maintenance, personal care, nursing or sheltered care to three or more residents, ninety percent of whom are 60 or more years of age.

Hospitalization - the care and treatment of a person in a hospital as an in-patient.

Individual Education Program (IEP) - a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) - a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Institutional Occupancy - when used in this Part means Health Care Facilities, Group (a), as defined in Chapter 10, paragraph 10-0001 of the Life Safety Code, National Fire Protection Association (1985 Edition).

Interdisciplinary Team - a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation Professional. The Interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator - a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse - a person with a valid Illinois license to practice as a practical nurse.

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Licensee - the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract - a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance - food, shelter, and laundry services. (Section 1-116 of the Act)

Maladaptive Behavior - impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Medical Record Practitioner - a person who: is eligible for certification as a registered record administrator (RRA) or an accredited record technician (ART), by the American Medical Record Association under its requirements; or is a graduate of a school of medical record science that is accredited jointly by the American Medical Association and the American Medical Record Association.

Mentally Retarded and Mental Retardation - subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property - using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory - unable to walk independently or without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mobile Resident - any resident who is able to move about either independently or with the aid of an assistive device such as a walker, crutches, a wheelchair, or a wheeled platform.

Monitor - a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect - a failure in a facility to provide adequate medical or

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personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

- the alleged failure causing injury or deterioration is ongoing or repetitious; or
- a resident required medical treatment as a result of the alleged failure; or
- the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility - any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization - the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

Nurse - a registered nurse or a licensed practical nurse as defined in the Illinois Nursing Act of 1987 [225 ILCS 65]. (Section 1-118 of the Act)

Nursing Assistant - any person who provides nursing care or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care - a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing

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procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit - a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective - an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) - a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].

Occupational Therapy Assistant - a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator - the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury - occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight - general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

Owner - the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person - any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

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Personal Care - assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered - a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

Physical Restraint - any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist Assistant - a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist - a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

Physician - any person licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Probationary License - an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist - a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist - a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Mental Retardation Professional - a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

Be a physician as defined in this Section.

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Be a registered nurse as defined in this Section.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Qualified Professional - a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

Reasonable Visiting Hours - any time between the hours of 10 a.m. and 8 p.m. daily. (Section 1-121 of the Act)

Registered Nurse - a person with a valid license to practice as a registered professional nurse under the Illinois Nursing Act of 1987.

Repeat Violation - For purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Reputable Moral Character - having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

Resident - person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director - the full-time administrator, or an individual on the professional staff in the facility, who is directly

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responsible for the coordination and monitoring of the residents' overall plans for care in an intermediate care facility.

Resident's Representative - a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care - a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Restraint--of--a--Resident-----the--application--of--a--device--to--limit movements:

Room - a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Safety-Device---any-equipment-or-protective--device--used--on--a--bed--chair--or--resident--which--prevents--him--from--falling--or--otherwise injuring--himself---Examples--are---bedside--railer--geriatric--or--adaptive chair--a--wide-band--vest--or--sheet--applied--to--prevent--falling--out--of--a bed--or--chair--and--hand--socks--applied--to--prevent--injury--one's--self:

Sanitization - the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory - same as adequate.

Seclusion - the retention of a resident alone in a room with a door that the resident cannot open.

Self Preservation - the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

Sheltered Care - maintenance and personal care. (Section 1-124 of the Act)

Social Worker, Qualified - a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal - the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

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Sterilization - the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a Corporation - any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

Story - when used in this Part, means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

Student Intern - means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

an academic credit requirement in a high school or undergraduate institution, or

immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Compliance - meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 300.140(a)(3) and 300.150(a)(3).

Substantial Failure - the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 300.165(b)(1).

Sufficient - same as adequate.

Supervision - authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

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Therapeutic Recreation Specialist - a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out - removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

Title XVIII - Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX - Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer - a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Unit - an entire physically identifiable residence area having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective rules governing the approved levels of service.

Universal Progress Notes - a common record with periodic narrative documentation by all persons involved in resident care.

Valid License - a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

SUBPART C: POLICIES

Section 300.680 Restraints and-Safety-Devices

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- a) The facility these shall have be written policies which-are-followed in-the-operation-of-the-facility controlling the use of physical restraints including, but not limited to, leg restraints, arm restraints, hand mitts, soft ties or vests, wheelchair safety bars and lap trays, and all facility practices that meet the definition of a restraint, such as tucking in a sheet so tightly that a bed-bound resident cannot move; bed rails used to keep a resident from getting out of bed; chairs that prevent rising; or placing a resident who uses a wheelchair so close to a wall that the wall prevents the resident from rising. Adaptive equipment is not considered a physical restraint. Wrist bands or devices on clothing that trigger electronic alarms to warn staff that a resident is leaving a room do not, in and of themselves, restrict freedom of movement and should not be considered as physical restraints. The policies shall be followed in the operation of the facility and shall comply with the Act and this Part. These policies shall be developed by the medical advisory committee or the advisory physician with participation by nursing and administrative personnel. (B)
- b) Safety-devices-with-the-exception-of-aide-rails-and-geriatric-chairs shall-be-used-only-upon-written-order-of-the-attending-physician-and-for-the-safety-and-security-of-the-residents.---in-an-emergency-a telephone-order-is-acceptable-if-taken-as-specified-in-Section 300-1620(a)(2).---(B)
- c) The-reasons-for-ordering-and-using-safety-devices-shall-be-recorded-in-the-clinical-record.---The-recordings-shall-contain-ongoing-evaluations of-the-need-for-the-safety-devices-and-the-measures-being-taken-to reduce-or-eliminate-the-need-for-their-use
- d) A-resident-wearing-a-safety-device-shall-have-it-released-for-a-few minutes-at-least-once-every-two-hours-or-more-often-if-necessary. Residents-in-geriatric-chairs-shall-be-assisted-to-ambulate-every-two hours-or-more-often-if-necessary-and-their-physical-condition-permits. The-resident's-position-shall-be-changed-at-these-times-and-good-skin care-or-other-nursing-needs-provided.---(B)
- b)e) No physical restraints safety-device with locks shall be used.
- c) Physical restraints shall not be used on a resident for the purpose of discipline or convenience.
- d) The use of chemical restraints is prohibited.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 300.682 Nonemergency Use of Physical Restraints

- a) Physical restraints shall only be used when required to treat the resident's medical symptoms or as a therapeutic intervention, as ordered by a physician, and based on:

1) the assessment of the resident's capabilities and an evaluation and trial of less restrictive alternatives that could prove

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effective:

- 2) the assessment of a specific physical condition or medical treatment that requires the use of physical restraints, and how the use of physical restraints will assist the resident in reaching his or her highest practicable physical, mental or psychosocial well being;
 - 3) consultation with appropriate health professionals, such as rehabilitation nurses and occupational or physical therapists, which indicates that the use of less restrictive measures or therapeutic interventions has proven ineffective; and
 - 4) demonstration by the care planning process that using a physical restraint as a therapeutic intervention will promote the care and services necessary for the resident to attain or maintain the highest practicable physical, mental or psychosocial well being. (Section 2-106(c) of the Act)
- b) A physical restraint may be used only with the informed consent of the resident, the resident's guardian, or other authorized representative. (Section 2-106(c) of the Act) Informed consent includes information about potential negative outcomes of physical restraint use, including incontinence, decreased range of motion, decreased ability to ambulate, symptoms of withdrawal or depression, or reduced social contact.
- c) The Informed Consent may authorize the use of a physical restraint only for a specified period of time. The effectiveness of the physical restraint in treating medical symptoms or as a therapeutic intervention and any negative impact on the resident shall be assessed by the facility throughout the period of time the physical restraint is used.
- d) After 50 percent of the period of physical restraint use authorized by the informed consent has expired, but not less than 5 days before it has expired, information about the actual effectiveness of the physical restraint in treating the resident's medical symptoms or as a therapeutic intervention and about any actual negative impact on the resident shall be given to the resident, resident's guardian, or other authorized representative before the facility secures an informed consent for an additional period of time. Information about the effectiveness of the physical restraint program and about any negative impact on the resident shall be provided in writing.
- e) A physical restraint may be applied only by staff trained in the application of the particular type of restraint. (Section 2-106(d) Act)
- f) Whenever a period of use of a physical restraint is initiated, the resident shall be advised of his or her right to have a person or organization of his or her choosing, including the Guardianship and Advocacy Commission, notified of the use of the physical restraint. A period of use is initiated when a physical restraint is applied to a resident for the first time under a new or renewed informed consent for the use of physical restraints. A recipient who is under

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guardianship may request that a person or organization of his or her choosing be notified of the physical restraint, whether or not the guardian approves the notice. If the resident so chooses, the facility shall make the notification within 24 hours, including any information about the period of time that the physical restraint is to be used. Whenever the Guardianship and Advocacy Commission is notified that a resident has been restrained, it shall contact the resident to determine the circumstances of the restraint and whether further action is warranted. (Section 2-106(e) of the Act) If the resident requests that the Guardianship and Advocacy Commission be contacted, the facility shall provide the following information in writing to the Guardianship and Advocacy Commission:

- 1) the reason the physical restraint was needed;
- 2) the type of physical restraint that was used;
- 3) the interventions utilized or considered prior to physical restraint and the impact of these interventions;
- 4) the length of time the physical restraint was to be applied; and
- 5) the name and title of the facility person who should be contacted for further information.

g) Whenever a physical restraint is used on a resident whose primary mode of communication is sign language, the resident shall be permitted to have his or her hands free from restraint for brief periods of each hour, except when this freedom may result in physical harm to the resident or others. (Section 2-106(f) of the Act)

h) The plan of care shall contain a schedule or plan of rehabilitative/habilitative training to enable the most feasible progressive removal of physical restraints or the most practicable progressive use of less restrictive means to enable the resident to attain or maintain the highest practicable physical, mental or psychosocial well being.

i) A resident wearing a physical restraint shall have it released for a few minutes at least once every two hours, or more often if necessary. During these times, residents shall be assisted with ambulation, as their condition permits, and provided a change in position, skin care and nursing care, as appropriate.

j) No form of seclusion shall be permitted.

(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 300.684 Emergency Use of Physical Restraints

- a) If a resident needs emergency care, physical restraints may be used for brief periods to permit treatment to proceed unless the facility has notice that the resident has previously made a valid refusal of the treatment in question. (Section 2-106(c) of the Act)
- b) For this Section only, "emergency care" means the unforeseen need for immediate treatment inside or outside the facility that is necessary

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- to:
- 1) save the resident's life;
 - 2) prevent the resident from doing serious mental or physical harm to himself/herself; or
 - 3) prevent the resident from injuring another individual.
- c) If a resident needs emergency care and other less restrictive interventions have proved ineffective, a physical restraint may be used briefly to permit treatment to proceed. The attending physician shall be contacted immediately for orders. If the attending physician is not available, the facility's advisory physician or Medical Director shall be contacted. If a physician is not immediately available, a nurse with supervisory responsibility may approve, in writing, the use of physical restraints. A confirming order, which may be obtained by telephone, shall be obtained from the physician as soon as possible, but no later than within eight hours. The effectiveness of the physical restraint in treating medical symptoms or as a therapeutic intervention and any negative impact on the resident shall be assessed by the facility throughout the period of time the physical restraint is used. The resident must be in view of a staff person at all times until either the resident has been examined by a physician or the physical restraint is removed. The resident's needs for toileting, ambulation, hydration, nutrition, repositioning, and skin care must be met while the physical restraint is being used.
- d) The emergency use of a physical restraint must be documented in the resident's record, including:
- 1) the behavior incident that prompted the use of the physical restraint;
 - 2) the date and times the physical restraint was applied and released;
 - 3) the name and title of the person responsible for the application and supervision of the physical restraint;
 - 4) the action by the resident's physician upon notification of the physical restraint use;
 - 5) the new or revised orders issued by the physician;
 - 6) the effectiveness of the physical restraint in treating medical symptoms or as a therapeutic intervention and any negative impact on the resident; and
 - 7) the date of the scheduled care planning conference or the reason a care planning conference is not needed, in light of the resident's emergency need for physical restraints.
- e) The facility's emergency use of physical restraints shall comply with Sections 300.682(e), (f), (g), and (i).

(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 300.686 Unnecessary, Psychotropic, and Antipsychotic Drugs

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- a) A resident shall not be given unnecessary drugs in accordance with Section 300.Appendix F. In addition, an unnecessary drug is any drug used:
- 1) in an excessive dose, including in duplicative therapy;
 - 2) for excessive duration;
 - 3) without adequate monitoring;
 - 4) without adequate indications for its use; or
 - 5) in the presence of adverse consequences that indicate the drugs should be reduced or discontinued. (Section 2-106.1(a) of the Act)
- b) Psychotropic medication shall not be prescribed or administered without the informed consent of the resident, the resident's guardian, or other authorized representative. (Section 2-106.1(b) of the Act) Additional informed consent is not required for reductions in dosage level or deletion of a specific medication. The informed consent may provide for a medication administration program of sequentially increased doses or a combination of medications to establish the lowest effective dose that will achieve the desired therapeutic outcome. Side effects of the medications shall be described. Residents shall not be given antipsychotic drugs unless antipsychotic drug therapy is necessary, as documented in the resident's comprehensive assessment, to treat a specific or suspected condition as diagnosed and documented in the clinical record or to rule out the possibility of one of the conditions in accordance with Section 300.Appendix F.
- d) Residents who use antipsychotic drugs shall receive gradual dose reductions and behavior interventions, unless clinically contraindicated, in an effort to discontinue these drugs in accordance with Section 300.Appendix F.
- e) For the purposes of this Section:
- 1) "Duplicative drug therapy" means any drug therapy that duplicates a particular drug effect on the resident without any demonstrative therapeutic benefit. For example, any two or more drugs, whether from the same drug category or not, that have a sedative effect.
 - 2) "Psychotropic medication" means medication that is used for or listed as used for antipsychotic, antidepressant, antimanic or antianxiety behavior modification or behavior management purposes in the latest edition of the AMA Drug Evaluations (Drug Evaluation Subscription, American Medical Association, Vols. I-III, Summer 1993), United States Pharmacopeia Dispensing Information Volume I (USP DI) (United States Pharmacopeial Convention, Inc., 15th Edition, 1995), American Hospital Formulary Service Drug Information 1995 (American Society of Health Systems Pharmacists, 1995), or the Physician's Desk Reference (Medical Economics Data Production Company, 49th Edition, 1995) or the United States Food and Drug Administration approved package insert for the psychotropic medication.

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(Section 2-106.1(b) of the Act)

- 3) "Antipsychotic drug" means a neuroleptic drug that is helpful in the treatment of psychosis and has a capacity to ameliorate thought disorders.

(Source: Added at 19 Ill. Reg. _____, effective _____)

SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

Section 300.1040 Behavior Emergencies (Repealed)

- a) If a resident becomes disturbed or unmanageable, he shall be examined by his physician. This medical examination shall be made promptly. †B†
- b) No form of seclusion shall be permitted.
- c) Restraints shall be used only in an emergency and only upon a physician's order until the resident is examined by the doctor. This examination shall be carried out promptly. Restraints may be applied only by personnel trained in proper application and observation of this equipment. (See Section 2-106 of the Act.) †B†
- d) The reason for ordering and using restraints shall be recorded in the clinical record. There shall be written policies which are followed in the operation of the facility, covering the use of restraints.

(Source: Repealed at 19 Ill. Reg. _____, effective _____)

SUBPART F: NURSING AND PERSONAL CARE

Section 300.1210 General Requirements for Nursing and Personal Care

- a) Adequate and properly supervised nursing care and personal care shall be provided to each resident to meet the total nursing and personal care needs of the resident. †A7-B†
- b) Restorative/rehabilitative nursing measures shall be practiced on a 24 hour day, seven day week basis. Those procedures requiring medical approval shall be ordered by the attending physician. Restorative measures shall include at a minimum the following procedures: †A7-B†
- 1) The licensed nurse in charge of the restorative/rehabilitative nursing program shall have successfully completed a course or other training program which includes at least 60 hours of classroom/lab training in restorative/rehabilitative nursing as evidenced by a transcript, certificate, diploma, or other written documentation from an accredited school or recognized accrediting agency such as a State or National organization of nurses or a State licensing authority. Such training shall address each of the measures outlined in subsection (b)(2) of this Section. This

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person may be the Director of Nursing, Assistant Director of Nursing or another nurse designated by the Director of Nursing to be in charge of the restorative/rehabilitative nursing program. †B†

- 2) All nursing personnel shall encourage and assist residents in maintaining good body alignment while standing, sitting or lying in bed. †B†
 - 3) All nursing personnel shall assist residents in maintaining maximum joint range of motion and active range of motion. †B†
 - 4) Residents who are incontinent shall be evaluated for an individualized bowel and bladder program and such a program shall be instituted when appropriate. The use of indwelling catheters shall be discouraged. †B†
 - 5) All nursing personnel shall encourage and, when necessary, teach residents to function at their maximum level in all activities of daily living. †B†
 - 6) All nursing personnel shall assist and encourage residents with ambulation as often as necessary (but not less than daily, unless otherwise ordered by the physician. †B†)
 - 7) All nursing personnel shall teach and assist residents with safe transfer activities in an effort to help them retain or regain their maximum level of independence. †B†
 - 8) Documentation of resident treatment and response to same shall be maintained as set forth in Section 300.1810(c). †B†
- c) General nursing care shall include at a minimum the following and shall be practiced on a 24-hour, seven day a week basis: †A7-B†
- 1) Medications including oral, rectal, hypodermic, intravenous and intramuscular shall be properly administered. †A7-B†
 - 2) Treatments and procedures, including, but not limited to, enemas, irrigations, catheterizations, applications of dressing or bandages, supervision of special diets, shall be properly carried out. †A7-B†
 - 3) All treatments and procedures shall be administered as ordered by the physician. †A7-B†
 - 4) Objective observations of changes in a resident's condition, including mental and emotional changes, as a means for analyzing and determining care required and the need for further medical evaluation and treatment shall be made by nursing staff and recorded in the resident's medical record. †A7-B†
 - 5) Personal care, as defined in Section 300.330, shall be provided on a 24-hour, seven day a week basis. This shall include, but not be limited to, the following: †A7-B†
 - A) Each resident shall have proper daily personal attention, including skin, nails, hair, and oral hygiene, in addition to treatment ordered by the physician. †B†
 - B) Each resident shall have at least one complete bath and hair wash weekly and as many additional baths and hair washes as necessary for satisfactory personal hygiene. †B†

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- C) Each resident shall have clean suitable clothing in order to be comfortable, sanitary, free of odors, and decent in appearance. Unless otherwise indicated by his/her ~~their~~ physician, this should be street clothes and shoes. ~~(B)~~
- D) Each resident shall have clean bed linens at least once weekly and more often if necessary. ~~(B)~~
- 6) A regular program to prevent and treat pressure sores shall be practiced on a 24 hour, seven day a week basis, including, but not limited to: ~~(A)-(B)~~
- A) An evaluation of each resident shall be conducted upon admittance and as necessary to determine the susceptibility of the resident to skin breakdown. Preventive measures and treatment measures shall be carried out by facility staff. ~~(B)~~
- B) Skin care shall be provided which includes but is not Skin care shall be provided which includes but is not limited to bathing, clean linens, and clothing each time the resident, the bed or clothing is soiled. ~~(B)~~
- C) Residents shall be assisted in being up and out of bed as much as possible and shall be repositioned whether in bed or out of bed as their condition indicates ~~(A)-(B)~~
- D) Proper equipment shall be utilized to prevent or treat pressure sores, such as proper padding between pressure points, adaptive equipment, splints, and water mattresses. ~~(B)~~
- E) An evaluation of each resident's nutritional status shall be conducted to determine if increased nutritional support is needed. ~~(B)~~
- 7) All necessary precautions shall be taken to assure the safety of residents at all times, such as but not limited to: nonslip wax on floors, ~~side-rails-on-beds~~, safe equipment, and assistive devices properly maintained, and proper use of physical restraints and adaptive equipment safety-devices. ~~(See-Section 300-600)-(A)-(B)~~

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 300.1620 Conformance With Physician's Orders

- a) All medications, including cathartics, headache remedies, or vitamins, shall be given only upon the written order of a physician. All such orders shall have the handwritten signature of the physician. (Rubber stamp signatures are not acceptable.) These medications shall be given as prescribed by the physician and at the designated time.
- b) Telephone orders may be taken by a registered nurse or licensed practical nurse. All such orders shall be immediately written on the

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- resident's clinical record, or a "telephone order form" and signed by the nurse taking the order. These orders shall be countersigned by the physician within 10 days. Facilities participating in Medicare/Medicaid must meet the applicable Federal regulations.
- c) Review of medication orders: The staff pharmacist or consultant pharmacist shall review the medical record, including physician orders and laboratory test results, at least monthly and, based on their clinical experience and judgment, and Section 300.Appendix F, determine if there are irregularities which would cause potential adverse reactions, allergies, contradictions, or ineffectiveness. This review shall be done at the facility. Documentation of this review must be entered in the clinical record. Any irregularities noted shall be reported to the attending physician, the advisory physician, and the administrator.
- d) A medication order not specifically limiting the time or number of doses shall be automatically stopped in accordance with written policies approved by the pharmaceutical advisory committee.
- e) The resident's attending physician shall be notified of medications about to be stopped so that the physician may promptly renew such orders to avoid interruption of the resident's therapeutic regimen.
- f) All medications to be released to the resident, or person responsible for the resident's care, at the time of discharge or when the resident is going to be temporarily out of the facility at medication time (such as when attending a vocational training program or on a weekend pass), shall be approved by the physician. A notation concerning their disposition shall be made on the resident's clinical record.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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Section 300. APPENDIX F Guidelines for the Use of Various Drugs

A. Long-Acting Benzodiazepine Drugs

Long-acting benzodiazepine drugs should not be used in residents unless an attempt with a shorter-acting drug (i.e., those listed under B. Benzodiazepine or Other Anxiolytic/Sedative Drugs, and under C. Drugs Used for Sleep Induction) has failed.

After an attempt with a shorter-acting benzodiazepine drug has failed, a long-acting benzodiazepine drug should be used only if:

1. Evidence exists that other possible reasons for the resident's distress have been considered and ruled out;
2. Its use results in maintenance or improvement in the resident's functional status;
3. Daily use is less than four continuous months unless an attempt at a gradual dose reduction is unsuccessful; and
4. Its use is less than, or equal to, the following listed total daily doses unless higher doses (as evidenced by the resident's response and/or the resident's clinical record) are necessary for the maintenance or improvement in the resident's functional status.

EXAMPLES OF LONG-ACTING BENZODIAZEPINES

Generic	Brand	Daily Oral Dosage
Flurazepam	(Dalmane)	15mg
Chlordiazepoxide	(Librium)	20mg
Clorazepate	(Tranxene)	15mg
Prizepam	(Centrax)	15mg
Diazepam	(Valium)	5mg
Clonazepam	(Klonopin)	1.5mg
Quazepam	(Doral)	7.5mg

NOTES:

When diazepam is used for neuromuscular syndromes (e.g., cerebral palsy, tardive dyskinesia or seizure disorders), this Guideline does not apply.

When long-acting benzodiazepine drugs are being used to withdraw residents from short-acting benzodiazepine drugs, this Guideline does not apply.

When clonazepam is used in bipolar disorders, management of tardive dyskinesia, nocturnal myoclonus or seizure disorders, this Guideline does not apply.

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The daily doses listed under Long-Acting Benzodiazepines are doses (usually administered in divided doses) for "geriatric" or "elderly" residents. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it was necessary for the maintenance or improvement in the resident's functional status.

For drugs in this category, a gradual dose reduction should be attempted at least twice within one year before one can conclude that the gradual dose reduction is "clinically contraindicated."

B. Benzodiazepine or other Anxiolytic/Sedative Drugs

Use of the listed Anxiolytic/Sedative drugs for purposes other than sleep induction should only occur if:

1. Evidence exists that other possible reasons for the resident's distress have been considered and ruled out;
2. Use results in a maintenance or improvement in the resident's functional status;
3. Daily use (at any dose) is less than four continuous months unless an attempt at a gradual dose reduction is unsuccessful;
4. Use is for one of the following indications as defined by the Diagnostic and Statistical Manual of Mental Disorders:
Generalized anxiety disorder;

Organic mental syndromes (including dementia) with associated agitated states which are quantitatively and objectively documented and which constitute sources of distress or dysfunction to the resident or represent a danger to the resident or others;

Panic disorder;

Symptomatic anxiety that occurs in residents with another diagnosed psychiatric disorder (e.g., depression, adjustment disorder); and

5. Use is equal to or less than the following listed total daily doses, unless higher doses (as evidenced by the resident's response and/or the resident's clinical record) are necessary for the improvement or maintenance in the resident's functional status.

EXAMPLES OF SHORT-ACTING BENZODIAZEPINES

Generic	Brand	Daily Oral Dosage
Lorazepam	(Ativan)	2mg
Oxazepam	(Serax)	30mg
Alprazolam	(Xanax)	0.75mg
Halazepam	(Paxipam)	40mg

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EXAMPLES OF OTHER ANXIOLYTIC AND SEDATIVE DRUGS

Generic	Brand	Daily Oral Dosage
Diphenhydramine	(Benadryl)	50mg
Hydroxyzine	(Atarax, Vistaril)	50mg
Chloral Hydrate	(Many Brands)	750mg

NOTES:

The daily doses listed under Short-Acting Benzodiazepines are doses (usually administered in divided doses) for "geriatric" or "elderly" residents. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it was necessary for the maintenance or improvement in the resident's functional status.

For drugs in this category, a gradual dose reduction should be attempted at least twice within one year before one can conclude that a gradual dose reduction is "clinically contraindicated."

Diphenhydramine, hydroxyzine and chloral hydrate are not necessarily drugs of choice for treatment of anxiety disorders. They are only listed here in the event of their potential use.

C. Drugs Used for Sleep Induction

Drugs used for sleep induction should only be used if:

1. Evidence exists that other possible reasons for insomnia (e.g., depression, pain, noise, light, caffeine) have been ruled out;
2. The use of a drug to induce sleep results in the maintenance or improvement of the resident's functional status;
3. Daily use of the drug is less than ten continuous days unless an attempt at a gradual dose reduction is unsuccessful;
4. The dose of the drug is equal to or less than the following listed doses unless higher doses (as evidenced by the resident's response and/or the resident's clinical record) are necessary for maintenance or improvement in the resident's functional status.

EXAMPLES OF HYPNOTIC DRUGS

Generic	Brand	Oral Dosage
Temazepam	(Restoril)	15mg
Triazolam	(Halcion)	0.125mg
Lorazepam	(Ativan)	1mg

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Oxazepam	(Serax)	15mg
Alprazolam	(Xanax)	0.25mg
Halazepam	(Paxipam)	20mg
Diphenhydramine	(Benadryl)	25mg
Hydroxyzine	(Atarax, Vistaril)	50mg
Chloral Hydrate	(Many Brands)	500mg

NOTES:

Diminished sleep in the elderly is not necessarily pathological.

The doses listed are doses for "geriatric" or "elderly" residents. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it was necessary for the maintenance or improvement in the resident's functional status.

Diphenhydramine, hydroxyzine, and chloral hydrate are not necessarily drugs of choice for sleep disorders. They are listed here only in the event of their potential use.

For drugs in this category, a gradual dose reduction should be attempted at least three times within six months before one can conclude that a gradual dose reduction is "clinically contraindicated."

D. Miscellaneous Hypnotic/Sedative/Anxiolytic Drugs

The initiation of the following hypnotic/sedative/anxiolytic drugs should not occur in any dose for any resident. (See Notes for exceptions.) Residents currently using these drugs or residents admitted to the facility while using these drugs should receive gradual dose reductions as part of a plan to eliminate or modify the symptoms for which they are prescribed. A gradual dose reduction should be attempted at least twice within one year before one can conclude that the gradual dose reduction is clinically contraindicated. Newly admitted residents using these drugs may have a period of adjustment before a gradual dose reduction is attempted.

(Caution: The rapid withdrawal of these drugs might result in severe physiological withdrawal symptoms.)

EXAMPLES OF BARBITURATES

Generic	Brand
Amobarbital	(Amytal)
Amobarbital-Secobarbital	(Tuinal)
Probarbital	(Alurate)
Butobarbital	(Butisol)

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Pentobarbital
Phenobarbital
Barbiturates with
other drugs

(Nembutal)
 (Luminal)
 (e.g., Fiorinal)

EXAMPLES OF MISCELLANEOUS HYPNOTIC/SEDATIVE/ANXIOLYTICSGenericBrand

Ethchlorvynol
Glutethimide
Meprobamate
Methprylon
Paraldehyde

(Placidyl)
 (Doriden)
 (Equinal, Miltown)
 (Noludar)
 (Many Brands)

NOTES:

Amobarbital is excepted from this Guideline when used as a single dose sedative for dental or medical procedures.

Phenobarbital is excepted from this Guideline when used in the treatment of seizure disorders.

When Miscellaneous Hypnotic/Sedative/Anxiolytic Drugs are used outside these Guidelines, they may be unnecessary drugs as a result of inadequate indications for use.

E. Antipsychotic Drugs

The following examples of antipsychotic drugs should not be used in excess of the listed doses for residents with organic mental syndromes (e.g., dementia, delirium) unless higher doses (as evidenced by the resident's response or the resident's clinical record) are necessary to maintain or improve the resident's functional status.

EXAMPLES OF ANTIPSYCHOTIC DRUGS FOR RESIDENTS WITH
ORGANIC MENTAL SYNDROMES

<u>Generic</u>	<u>Brand</u>	<u>Daily</u> <u>Oral Dosage</u>
<u>Chlorpromazine</u>	(Thorazine)	75mg
<u>Promazine</u>	(Sparine)	150mg
<u>Triflupromazine</u>	(Vesprin)	20mg
<u>Thioridazine</u>	(Mellaril)	75mg
<u>Mesoridazine</u>	(Serenitil)	25mg
<u>Acetophenazine</u>	(Tindal)	20mg
<u>Perphenazine</u>	(Trilafon)	8mg

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<u>Fluphenazine</u>	(Prolixin, Permitil)	4mg
<u>Trifluoperazine</u>	(Stelazine)	8mg
<u>Chlorprothixene</u>	(Taractan)	75mg
<u>Thiothixene</u>	(Navane)	7mg
<u>Haloperidol</u>	(Haldol)	4mg
<u>Molindone</u>	(Moban)	10mg
<u>Loxapine</u>	(Loxitane)	10mg
<u>Clozapine</u>	(Clozaril)	50mg
<u>Prochlorperazine</u>	(Compazine)	10mg

NOTES:

The doses listed are daily doses (usually administered in divided doses) for residents with organic mental syndromes. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it is necessary for the maintenance or improvement in the resident's functional status.

The "specific conditions" for use of antipsychotic drugs are listed under this Guideline under G.

The dose of prochlorperazine may be exceeded for short term (seven day) treatment of nausea and vomiting.

When antipsychotic drugs are used outside these Guidelines, they may be deemed unnecessary drugs as a result of excessive doses.

F. Monitoring for Antipsychotic Drug Side Effects

The facility assures that residents who are undergoing antipsychotic drug therapy receive adequate monitoring for significant side effects of such therapy with emphasis on the following:

1. Tardive dyskinesia;
2. Postural (orthostatic) hypotension;
3. Cognitive/behavior impairment;
4. Akathisia; and
5. Parkinsonism.

When antipsychotic drugs are used without monitoring for these side effects, they may be unnecessary drugs because of inadequate monitoring.

G. Use of Antipsychotic Drugs

Antipsychotic drugs should not be used unless the clinical record documents that the resident has one or more of the following "specific conditions":

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1. Schizophrenia;
2. Schizo-affective disorder;
3. Delusional disorder;
4. Psychotic mood disorders (including mania and depression with psychotic features);
5. Acute psychotic episodes;
6. Brief reactive psychosis;
7. Schizophreniform disorder;
8. Atypical psychosis;
9. Tourette's disorder;
10. Huntington's disease;
11. Organic mental syndromes (including dementia and delirium) with associated psychotic and/or agitated behaviors;

Which have been quantitatively (number of episodes) and objectively (e.g., biting, kicking, scratching) documented;

Which are not caused by preventable reasons; and

Which are causing the resident to:

- Present a danger to her/himself or to others,
- Continuously cry, scream, yell, or pace if these specific behaviors cause an impairment in functional capacity, or
- Experience psychotic symptoms (hallucinations, paranoia, delusions) not exhibited as dangerous behaviors or as crying, screaming, yelling, or pacing but which cause the resident distress or impairment in functional capacity; or
- Short term (seven days) symptomatic treatment of hiccups, nausea, vomiting or pruritus.

Antipsychotics should not be used if one or more of the following is/are the only indication:

1. Wandering,
2. Poor self care,
3. Restlessness,
4. Impaired memory,
5. Anxiety,
6. Depression (without psychotic features),
7. Insomnia,
8. Unsociability,
9. Indifference to surroundings,
10. Fidgeting,
11. Nervousness,
12. Uncooperativeness, or
13. Agitated behaviors which do not represent danger to the resident or others.

As needed or P.R.N. antipsychotic drugs should only be used when the resident has a "specific condition" for which antipsychotic drugs are indicated (that is, points one through twelve above) and one of the

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following circumstances exists:

1. The as needed or P.R.N. dose is being used to titrate the resident's total daily dose up to achieve symptom relief, or down to avoid side effects, or down to effect a gradual dose reduction, or
2. The as needed or P.R.N. dose is being used to manage unexpected harmful behaviors that cannot be managed without antipsychotic drugs. Under this circumstance, a P.R.N. antipsychotic drug may be used no more than twice in any seven day period without an assessment of the cause for the resident's behavioral symptoms, and the development of a plan of care designed to attempt to reduce or eliminate the cause(s) for the harmful behavior.

H. Antipsychotic Drug Gradual Dose Reduction

Residents must, unless clinically contraindicated, have gradual dose reductions of the antipsychotic drug. The gradual dose reduction should be under close supervision. If the gradual dose reduction is causing an adverse effect on the resident and the gradual dose reduction is discontinued, documentation of this decision and the reasons for it should be included in the clinical record. Gradual dose reductions consist of tapering the resident's daily dose to determine if the resident's symptoms can be controlled by a lower dose or to determine if the dose can be eliminated altogether.

"Behavioral interventions" means modification of the resident's behavior or the resident's environment, including staff approaches to care, to the largest degree possible to accommodate the resident's behavioral symptoms.

"Clinically contraindicated" means that a resident with a "specific condition" (as listed in these Guidelines under G, 1-11) who has had a history of recurrence of psychotic symptoms (e.g., delusions, hallucinations) which have been stabilized with a maintenance dose of an antipsychotic drug without incurring significant side effects (e.g., tardive dyskinesia) should not receive gradual dose reductions. In residents with organic mental syndromes (e.g., dementia, delirium), "clinically contraindicated" means that a gradual dose reduction has been attempted twice in one year and that attempt resulted in the return of symptoms for which the drug was prescribed to a degree that a cessation in the gradual dose reduction, or a return to previous dose levels, was necessary.

I. Exceptions to These Guidelines

The facility shall have the opportunity to provide a rationale for the use of drugs prescribed outside these Guidelines. The facility may not justify the use of a drug prescribed outside these Guidelines solely on the basis of "the doctor ordered it." The rationale must be based on sound risk-benefit analysis of the resident's problem and potential adverse effects of the

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drug.

The unnecessary drug criterion of "adequate indications for use" does not simply mean that the physician's order must include a reason for using the drug (although such order writing is encouraged). It means that the resident lacks a valid clinical reason for use of the drug as evidenced by the evaluation of some, but not necessarily all, of the following: resident assessment, plan of care, reports of significant change, progress notes, laboratory reports, professional consults, drug orders, observation and interview of the resident, and other information.

In determining whether an antipsychotic drug is without a "specific condition" or that "gradual dose reduction and behavioral interventions" have not been performed, the facility shall justify why using the drug outside these Guidelines is in the best interest of the resident.

Examples of evidence that would support a justification of why a drug is being used outside these Guidelines but in the best interests of the resident may include, but are not limited to:

1. A physician's note indicating, for example, that the dosage, duration, indication, and monitoring are clinically appropriate, and the reasons why they are clinically appropriate; this note should demonstrate that the physician has carefully considered the risk/benefit to the resident in using drugs outside these Guidelines;
2. A medical or psychiatric consultation or evaluation (e.g., Geriatric Depression Scale) that confirms the physician's judgment that use of a drug outside these Guidelines is in the best interest of the resident;
3. Physician, nursing, or other health professional documentation indicating that the resident is being monitored for adverse consequences or complications of the drug therapy;
4. Documentation confirming that previous attempts at dosage reduction have been unsuccessful;
5. Documentation (such as MDS documentation) showing resident's subjective or objective improvement, or maintenance of function while taking the medication;
6. Documentation showing that a resident's decline or deterioration is evaluated by the interdisciplinary team to determine whether a particular drug, or a particular dose, or duration of therapy, may be the cause;
7. Documentation showing why the resident's age, weight, or other factors would require a unique drug dose or drug duration, indication, monitoring; and
8. Other evidence which may be appropriate.

(Source: Added at 19 Ill. Reg. _____, effective

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NOTICE OF PROPOSED RULES

1) Heading of the Part: Voter Registration for WIC Applicants and Participants

2) Code Citation: 77 Ill. Adm. Code 670

3) Section Numbers: Proposed Action:

670.10 New Section

670.20 New Section

4) Statutory Authority: Implemented and authorized by the National Voter Registration Act of 1993 (P.L. 103-31).

5) A Complete Description of the Subject and Issues Involved: When a woman applicant/participant applies for WIC services or changes address at a Local Agency contracted with by the Department, the Local Agency staff shall inform the applicant/participant of her rights to execute or decline to execute a voter registration application. They will provide the applicant/participant with a form that asks if she would like to apply to register to vote and contains boxes which can be checked to indicate whether ~~or--not~~ the applicant would like to register to vote. If they choose to register, the Local Agency staff will provide the applicant/participant with a voter registration application form approved by the State Board of Elections.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? Yes

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain any Incorporations by Reference? No

9) Are there any other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: The Department and Local WIC Agencies will incur additional expenses due to the enactment of this rule. The Department will incur the expenses for the printing of the forms and providing the agencies with envelopes to mail in the registration forms. The Local Agencies will incur the postage for mailing these forms to the various election offices and the cost for additional staff hours in applicant/participant assistance and completing all of the forms.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking:

Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

Gail M. Devito

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Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
217/782-6187

These rules may have an impact on small businesses. Any small business may present their comments in writing to Gail M. Devito at the above address.

Any small business (as defined in the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses Affected: Not for profit organizations that provide counseling to WIC clients.

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Filing and recordkeeping of registration forms.

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The Department did not anticipate promulgation of rules.

The text of the Proposed Rules is identical to emergency rules published in this issue of the *Illinois Register* on page **14893**

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130

- 3) Section Numbers: Proposed Action:

130.120
Amendment

- 4) Statutory Authority: 35 ILCS 120

- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends the Department's rule concerning the Retailers' Occupation Tax Act to provide an exemption (1) for sales of semen used for artificial insemination of livestock for direct agricultural production; (2) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, for sales of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area; and (3) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, for sales of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster. Also provides the certification requirements for such sales.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? No

- 9) Are there any other proposed rulemakings pending on this part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
130.501	Amendment	10/14/94, 18 Ill. Reg. 15383
130.502	Amendment	10/14/94, 18 Ill. Reg. 15383

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- 130.510
Amendment 10/14/94, 18 Ill. Reg. 15383
- 130.540
Amendment 10/14/94, 18 Ill. Reg. 15383
- 130.331
Amendment 01/20/95, 19 Ill. Reg. 571

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State Mandate, nor does it modify any existing State Mandates.

- 11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Gina Roccaforte
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, IL 62794
(217) 782-6996

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Any business that sells semen used for artificial insemination of livestock or other tangible personal property.

- B) Reporting, bookkeeping or other procedures required for compliance: Exemption certification requirements, which are provided for in the rule.

- C) Types of professional skills necessary for compliance: No additional skills are needed.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 130

RETAILERS' OCCUPATION TAX

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130.105	Occasional Sales
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130.205	Sales of Tangible Personal Property to Purchasers for Resale
130.210	Further Illustrations
130.215	Sales to Lessors of Tangible Personal Property
130.220	

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130.310	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
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130.321	Graphic Arts Machinery and Equipment Exemption
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130.401	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.405	Cost of Doing Business Not Deductible
130.410	

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TRANSPORTATION AND DELIVERY CHARGES

130.415	Finance or Interest Charges--Penalties--Discounts
130.420	Traded-In Property
130.425	Deposit or Prepayment on Purchase Price
130.430	State and Local Taxes Other Than Retailers' Occupation Tax
130.435	Penalties
130.440	Federal Taxes
130.445	Installation, Alteration and Special Service Charges
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130.455	

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130.501	Quarterly Tax Returns
130.502	Returns and How to Prepare
130.505	Annual Tax Returns
130.510	First Return
130.515	Final Returns When Business is Discontinued
130.520	Who May Sign Returns
130.525	Returns Covering More Than One Location
130.530	Registration--Separate Returns for Separately Registered Locations
130.535	Payment of the Tax, Including Quarterly Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period
130.550	Filing of Returns for Retailers by Suppliers
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130.555	Prepayment of Retailers' Occupation Tax on Motor Fuel
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130.701	Procedure in Disputed Cases Involving Financial Responsibility Requirements
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130.801 General Requirements
130.805 What Records Constitute Minimum Requirement
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130.815 Preservation and Retention of Records
130.820 Preservation of Books During Pendency of Assessment Proceedings
130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

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SUBPART J: BINDING OPINIONS

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SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section
130.1101 Definition of Federal Area
130.1105 When Deliveries on Federal Areas Are Taxable
130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section
130.1201 General Information
130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

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130.1301 When Lessee of Premises Must File Return for Leased Department

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130.1305 When Lessor of Premises Should File Return for Leased Department
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130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
130.1410 Requirements for Certificates of Resale (Repealed)
130.1415 Resale Number--When Required and How Obtained
130.1420 Blanket Certificate of Resale (Repealed)

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Section
130.1501 Claims for Credit--Limitations--Procedure
130.1505 Disposition of Credit Memoranda by Holders Thereof
130.1510 Refunds
130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON SELLING OUT OR DISCONTINUING BUSINESS

Section
130.1601 When Returns are Required After a Business is Discontinued
130.1605 When Returns Are Not Required After Discontinuation of a Business
130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section
130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section
130.1801 When Powers of Attorney May be Given
130.1805 Filing of Power of Attorney With Department
130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

Section
130.1901 Addition Agents to Plating Baths
130.1905 Agricultural Producers
130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage

DEPARTMENT OF REVENUE

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Stamps and Like Articles
 Auctioneers and Agents
 Barbers and Beauty Shop Operators
 Blacksmiths
 Chiropractors, Osteopaths and Chiropractors
 Computer Software
 Construction Contractors and Real Estate Developers
 Co-operative Associations
 Dentists
 Enterprise Zones
 Farm Chemicals
 Finance Companies and Other Lending Agencies - Installment Contracts
 - Repossessions
 Florists and Nurserymen
 Hatcheries
 Operators of Games of Chance and Their Suppliers
 Optometrists and Opticians
 Pawnbrokers
 Peddlers, Hawkers and Itinerant Vendors
 Personalizing Tangible Personal Property
 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
 Sales by Teacher-Sponsored Student Organizations
 Exemption Identification Numbers
 Sales by Nonprofit Service Enterprises
 Persons Who Rent or Lease the Use of Tangible Personal Property to Others
 Persons Who Repair or Otherwise Service Tangible Personal Property
 Physicians and Surgeons
 Picture-Framers
 Public Amusement Places
 Registered Pharmacists and Druggists
 Retailers of Clothing
 Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
 Sales and Gifts By Employers to Employees
 Sales by Governmental Bodies
 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
 Sales of Automobiles for Use In Demonstration
 Sales of Containers, Wrapping and Packing Materials and Related Products
 Sales To Construction Contractors, Real Estate Developers and Speculative Builders
 Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
 Sales to or by Banks, Savings and Loan Associations and Credit

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Unions
 Sales to Railroad Companies
 Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
 Sellers of Feeds and Breeding Livestock
 Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and Their Suppliers
 Sellers of Seeds and Fertilizer
 Sellers of Machinery, Tools and the Like
 Suppliers of Persons Engaged in Service Occupations and Professions
 Trading Stamps and Discount Coupons
 Undertakers and Funeral Directors
 Vending Machines
 Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items Made to Order
 Vendors of Meals
 Vendors of Memorial Stones and Monuments
 Vendors of Signs
 Vendors of Steam
 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
 Veterinarians
 Warehousemen
 ILLUSTRATION A: Examples of Tax Exemption Cards
 AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 39b3 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b3].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 13062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767,

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effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 18866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 19 Ill. Reg. _____, effective _____.

SUBPART A: NATURE OF TAX

Section 130.120 Nontaxable Transactions

The tax does not apply to receipts from sales:

- a) of ~~of~~ intangible personal property, such as shares of stocks, bonds, evidences of interest in property, corporate or other franchises and evidences of debt;
- b) of real property, such as lands and buildings that are permanently attached to the land;
- c) of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives such number to the vendor in connection with certifying to the vendor that the sale to such purchaser is nontaxable on the ground of being a sale for resale (see Subparts B and N of this Part);
- d) of personal services, where rendered as such (see various rules relating to particular service occupations); however, for information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140);
- e) which are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part);
- f) which are isolated or occasional (see Section 130.110 of this

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- Subpart);
- g) of newspapers and magazines (see Section 130.2105 of this Part);
 - h) which are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization which has not compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older (see Section 130.2005 of this Part);
 - i) which are made to any governmental body (see Section 130.2080 of this Part);
 - j) of pollution control facilities (see Section 130.335 of this Part);
 - k) of fuel consumed or used in the operation of ships, barges or vessels which are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if such fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is afloat upon such bordering river (see Section 130.315 of this Part);
 - l) of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce (see Section 130.340 of this Part);
 - m) of a motor vehicle in this State to a nonresident even though such motor vehicle is delivered to such nonresident in this State, if such motor vehicle is not to be titled in this State, and if a driveway decal permit is issued to such motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603] (###-Rev-Stat-1989-##-95-172-par-3-603), or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his home state;
 - n) of merchandise in bulk when sold from a vending machine for 1¢ (see Section 130.2135 of this Part);
 - o) of food and beverages by a person who is the recipient of a grant or contract under Title VII of the Older American Act of 1965 (Title 42, USC 3021) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act;
 - p) of farm chemicals (see Section 130.1955 of this Part);
 - q) of manufacturing machinery and equipment that qualifies for exemption under provisions of Section 130.330 of this Part;
 - r) of services included in gross receipts for purposes of the Retailers' Occupation Tax and which are designated mandatory service charges by vendors of meals provided that all of the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. Service charges which are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business are taxable gross receipts;

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

s) of any petroleum product, if the seller is prohibited by federal law from charging tax to the purchaser.⁷

1) For example, federal law prohibits sellers from charging tax to Amtrak when it purchases petroleum products. However, federal law does not relieve the seller of Retailers' Occupation Tax liability in these transactions. For that reason, the exemption set out in this subsection is necessary to relieve the seller of Retailers' Occupation Tax liability when making sales of petroleum products to Amtrak.

2) The nontaxable transaction set out above is also applicable to local Retailers' Occupation Taxes.⁸

t) of farm machinery and equipment, both new and used including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, or state or federal agricultural programs, including individual replacement parts for the machinery and equipment and including machinery and equipment purchased for lease (see Section 130.305);

u) of distillation machinery and equipment, sold as a unit or kit, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as a motor fuel or as a component of motor fuel for personal use of the user and not subject to sale or resale;

v) of graphic arts machinery and equipment, including repair and replacement parts (see Section 130.325);

w) a motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code that is used for automobile renting as defined in the Automobile Renting Occupation Use and Tax Act;

x) of personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois (see Section 130.2006);

y) of that portion of the selling price of a passenger car, the sale of which is subject to the replacement vehicle tax of the Illinois Vehicle Code [625 ILCS 5/3-2001] (4111-Rev-Stat-1999-CH-95-177 par-3-2001);

z) of personal property sold to an Illinois County Fair Association for use in conducting, operating or promoting the County Fair;

aa) of personal property sold to any not-for-profit music or dramatic arts organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 U.S.C.A. 501) and that is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis;

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

bb) of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise (see Section 130.2008);

cc) of legal tender, currency, medallions, or gold or silver coins issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion;

dd) of oil field exploration, drilling and production equipment costing \$250 or more (see Section 130.345);

ee) of photoprocessing machinery and equipment, including repair and replacement parts (see Section 130.2000);

ff) of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment costing \$250 or more, including replacement parts and equipment costing \$250 or more (see Section 130.350);⁷ and

gg) of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for destination outside the United States (Section 2-5 of the Act) (see Section 130.321);⁷

hh) of semen used for artificial insemination of livestock for direct agricultural production. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and the date of signing, a description of the items being purchased for donation, a statement that the property purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has

DEPARTMENT OF REVENUE

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been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit; and

ii) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within six months after the disaster. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit.

(Source: Amended at 19 Ill. Reg. _____, effective _____.)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Service Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 140
- 3) Section Numbers: Proposed Action:
140.125 Amendment
Statutory Authority: 35 ILCS 115
- 4) Complete Description of the Subjects and Issues Involved: This rulemaking amends the Department's rule concerning the Service Occupation Tax Act to provide an exemption (1) for sales of semen used for artificial insemination of livestock for direct agricultural production; (2) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, for sales of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area; and (3) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, for sales of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster. Also provides the certification requirements for such sales.

- 6) Will this proposed rule replace an emergency rule currently in effect: No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part: Yes

Section Numbers	Proposed Action	Illinois Register Citation
140.401	Amendment	10/14/94, 18 Ill. Reg. 15372
140.405	Amendment	10/14/94, 18 Ill. Reg. 15372
140.101	Amendment	11/04/94, 18 Ill. Reg. 16291

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- 140.125 Amendment 11/04/94, 18 Ill. Reg. 16291
- 140.201 Amendment 11/04/94, 18 Ill. Reg. 16291

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State Mandate, nor does it modify any existing State Mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Gina Roccaforte
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, IL 62794
(217) 782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Any business that sells semen used for artificial insemination of livestock or other tangible personal property.

B) Reporting, bookkeeping or other procedures required for compliance: Exemption certification requirements, which are provided for in the rule.

C) Types of professional skills necessary for compliance: No additional skills are needed.

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendment(s) begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- TITLE 86: REVENUE
- CHAPTER I: DEPARTMENT OF REVENUE

PART 140
SERVICE OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section	
140.101	Basis and Rate of the Service Occupation Tax
140.105	Registration of Servicemen
140.110	Presumption that Tax Applies (Repealed)
140.115	Occasional Sales to Servicemen by Suppliers (Repealed)
140.120	Meaning of Serviceman
140.125	Examples of Nontaxability
140.126	Exemption of Food, Drugs and Medical Appliances
140.130	Suppliers of Printers (Repealed)
140.135	Sales of Drugs and Related Items, to or by Pharmacists
140.140	Other Examples of Taxable Transactions
140.145	Multi-Service Situations

SUBPART B: DEFINITIONS

Section	
140.201	General Definitions

SUBPART C: BASE OF THE TAX

Section	
140.301	Cost Price
140.305	Refunds by Supplier or Serviceman

SUBPART D: TAX RETURNS

Section	
140.401	Monthly Returns When Due -- Contents of Returns
140.405	Annual Tax Returns
140.410	Final Return
140.415	Taxpayer's Duty to Obtain Form
140.420	Annual Information Returns by Servicemen
140.425	Filing of Returns for Serviceman "Suppliers" by their Suppliers
	Under Certain Circumstances
140.430	Incorporation by Reference

SUBPART E: INTERSTATE COMMERCE

Section	
140.501	Sales of Service Involving Property Originating in Illinois

DEPARTMENT OF REVENUE

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140.1301 When Purpose of Serviceman's Purchase is Known (Repealed)
 140.1305 When Purpose of Serviceman's Purchase is Unknown
 140.1310 Blanket Percentage Exemption Certificates (Repealed)

SUBPART N: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
 140.1401 Claims for Credit -- Limitations -- Procedure
 140.1405 Disposition of Credit Memoranda by Holders Thereof
 140.1410 Refunds
 140.1415 Interest

SUBPART O: DISCONTINUATION OF A BUSINESS

Section
 140.1501 Procedures

SUBPART P: NOTICE OF SALES OF GOODS IN BULK

Section
 140.1601 Requirements and Procedures

SUBPART Q: POWER OF ATTORNEY

Section
 140.1701 General Information

AUTHORITY: Implementing the Service Occupation Tax Act [35 ILCS 115] and authorized by Section 39b30 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b30].

SOURCE: Adopted May 21, 1962; amended at 3 Ill. Reg. 23, p. 161, effective June 3, 1979; amended at 3 Ill. Reg. 44, p. 198, effective October 19, 1979; amended at 4 Ill. Reg. 24, pp. 526, 536 and 550, effective June 1, 1980; amended at 5 Ill. Reg. 822, effective January 2, 1981; amended at 6 Ill. Reg. 2879, 2883, 2886, 2892, 2895 and 2897, effective March 3, 1982; codified at 6 Ill. Reg. 9326; amended at 9 Ill. Reg. 7941, effective May 14, 1985; amended at 11 Ill. Reg. 14090, effective August 11, 1987; emergency amendment at 12 Ill. Reg. 14419, effective September 1, 1988, for a maximum of 150 days; emergency expired January 29, 1989; amended at 13 Ill. Reg. 9388, effective June 6, 1989; amended at 14 Ill. Reg. 262, effective January 1, 1990; amended at 14 Ill. Reg. 15480, effective September 10, 1990; amended at 15 Ill. Reg. 5834, effective April 5, 1991; amended at 18 Ill. Reg. 1550, effective January 13, 1994; amended at 19 Ill. Reg. _____, effective _____.

SUBPART A: NATURE OF TAX

Section 140.125 Examples of Nontaxability

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

140.505 Sales of Service Involving Property Originating Outside of Illinois (Repealed)

SUBPART F: REGISTRATION UNDER THE SERVICE OCCUPATION TAX ACT

Section
 140.601 General Information

SUBPART G: BOOKS AND RECORDS

Section
 140.701 Requirements

SUBPART H: PENALTIES, INTEREST AND PROCEDURES

Section
 140.801 General Information

SUBPART I: WHEN OPINIONS FROM THE DEPARTMENT ARE BINDING

Section
 140.901 Written Opinions

SUBPART J: COLLECTION OF THE TAX

Section
 140.1001 Payment of Tax to the Supplier
 140.1005 Receipt to be Obtained for Tax Payments
 140.1010 Payment of Tax Directly to the Department
 140.1015 Itemization of the Tax by Suppliers
 140.1020 Use of Bracket Chart
 140.1025 Advertising in Regard to the Tax

SUBPART K: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING -- MEANING OF DUE DATE WHICH FALLS ON SATURDAY, SUNDAY OR A HOLIDAY

Section
 140.1101 Filing of Documents with the Department

SUBPART L: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section
 140.1201 When Lessee of Premises May File Return for Leased Department
 140.1205 When Lessor of Premises Should File Return for Leased Department
 140.1210 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART M: USE OF EXEMPTION CERTIFICATES

Section

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

The tax does not apply to:

- a) sales of intangible personal property;
- b) sales of real property;
- c) sales of personal services as such;
- d) sales of tangible personal property which come within the protection of the Commerce Clause of the Constitution of the United States (see Subpart E of this Part);
- e) purchases of tangible personal property where the serviceman gives a valid exemption certificate to his supplier;
- f) the retail selling of tangible personal property which is taxable under the Retailers' Occupation Tax Act [35 ILCS 120] ~~§§11-1-Rev-7 Stat--1987--ch--120--para--448-et-seq-7~~ or the Use Tax Act [35 ILCS 105] ~~§§11-Rev-7 Stat--1987--ch--120--para--439-1-et-seq-7~~;
- g) a sale of tangible personal property for the purpose of resale apart from the purchaser's engaging in a service occupation;
- h) sales of tangible personal property as an incident to sales of service:
 - 1) to or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes (Section 2 of the Act);
 - 2) to or by any corporation, society, association, foundation or institution operated primarily for the recreation of persons aged 55 years or older which has no compensated officers or employees;
 - 3) to or by any governmental body (Section 2 of the Act);
 - 4) by any corporation, society, association, foundation or institution organized and operated as a not-for-profit service enterprise for the benefit of persons aged 65 years of age or older, only to the extent of purchases of personal property not purchased by the enterprise for the purpose of resale by the enterprise (Section 2 of the Act);
 - 5) to a not-for-profit Illinois county fair association for use in conducting, operating or promoting the county fair (Section 2 of the Act);
 - 6) to any not-for-profit music or dramatic arts organization which has received an exemption under Section 501(c)(3) of the Internal Revenue Code and which is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis (Section 2 of the Act);
 - 7) In order to qualify for exemption, all the above listed organizations must have been issued an active exemption identification number by the Department.
- i) the sale, employment and transfer of such tangible personal property as newspaper and ink for physical incorporation into newspapers or magazines;
- j) the incorporation of tangible personal property into real estate by a construction contractor, which activity constitutes a taxable "use" under the Retailers' Occupation Tax Act and the Use Tax Act, rather than the carrying on of a service occupation;

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- k) the sale, employment and transfer, as an incident to a sale of service, of such tangible personal property as pollution control facilities and low sulphur dioxide coal fueled devices;
- l) sales of stock tonics, serums and other medicinal products to veterinarians for retransfer as an incident to service in caring for farm animals;
- m) sales of sprays and farm chemicals as an incident to service by persons engaged in the service occupation of spraying crops or applying farm chemicals for others;
- n) sale of either new or used farm machinery, equipment or replacement parts transferred as an incident to a sale of service for use in production agriculture or for use in state or federal agricultural programs;
- o) *a sale or transfer of machinery and equipment used primarily in the process of manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges or similar items of no commercial value on special order for a particular purchaser, when the machinery or equipment is produced by the seller thereof for the manufacturer or the manufacturer's lessor on special order in such a way as to have made the applicable tax a service occupation tax or service use tax, rather than retailers' occupation tax or use tax. (Section 2 of the Act)- The transfer of standard or stock parts in the repair of qualifying exempt manufacturing machinery and equipment is not exempt;*
- p) *a sale or transfer of graphic arts machinery and equipment, including repair and replacement parts used primarily for graphic arts production by means of printing or other processes or defined in Major Group 27 of the U.S. Standard Industrial Classification Manual (Section 2 of the Act);*
- q) *sales of oil field exploration, drilling and production equipment and individual replacement parts costing the purchaser \$250 or more;*
- r) *sales of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment and repair parts costing the purchaser \$250 or more;*
- s) *a sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer, executed or in effect at the time of purchase, to interstate carriers for hire for use as rolling stock moving in interstate commerce (Section 2 of the Act);*
- t) *a sale or transfer of tangible personal property as an incident to the rendering of service for owners, lessors or shippers of tangible*

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personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce (Section 2 of the Act);

u) the sale or transfer of distillation machinery and equipment, sold as a unit or kit and assembled or installed by the retailer, which machinery and equipment is certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of such user and not subject to sale or resale (Section 2 of the Act);

v) sales by teacher-sponsored student organizations affiliated with Illinois elementary and secondary schools; or

w) sales of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States or any foreign country and bullion, which shall mean gold, silver or platinum in a bulk state with a purity of not less than 980 parts per 1,000. In no circumstance shall items sold as jewelry or mounted for wear as jewelry qualify for this exemption.

x) sales of modified or custom software are exempt. Sales of canned software in a service transaction would be subject to tax. Computer software means all types of software including operational, application, utilities, compilers, templates, shells and all other forms. Software is considered to be tangible personal property regardless of the form in which it is transferred or transmitted, including tape, disc, card, electronic means or other media. The sale at retail or transfer of canned software intended for general or repeated use is taxable, including the sale of software which is subject to manufacturer licenses restricting the use or reproduction of the software. Tax applies to the entire charge made to the customer, including charges for all associated documentation and materials. Charges for updates and maintenance of software are considered to be sales of software. Charges for training, telephone assistance, installation and consultation are exempt if they are separately stated from the selling price of software.

y) sales of semen used for artificial insemination of livestock for direct agricultural production. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing, and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit.

z) beginning with taxable years ending on or after December 31, 1995, and of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing, a description of the items being purchased for donation, and a statement that the property purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit.

aa) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, sales of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within six months after the disaster. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: State Vehicles and Garage

2) Code Citation: 44 Ill. Adm. Code 5040

3) Section Number: Adopted Action:

5040.130

Amend

4) Statutory Authority: Implementing Sections 67.15, 67.16 and 67.22 of the Civil Administrative Code of Illinois [20 ILCS 405/67.15, 67.16 and 67.22]; Sections 1 and 2 of "AN ACT to require state agencies and state colleges and universities to purchase or lease passenger automobiles complying with minimum gas mileage standards" [30 ILCS 615/1 and 615/2] and Sections 1 and 2 of "AN ACT relating to identification and use of motor vehicles of the State" [30 ILCS 610/1 and 610/2] and authorized by Section 67.15 of the Civil Administrative Code of Illinois [20 ILCS 405/67.15].

5) Effective Date of Rules: October 5 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Do the Rules contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: October 5 1995

9) Notice of Proposal Published in Illinois Register: July 14, 1995, 19 Ill. 9365

10) Has JCAR issued a Statement of Objections to the Amendments? No

11) Differences between proposal and final version: Changed cites to short titles.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were necessary.

13) Will the Rules replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: The Department of Central Management Services' statutory authority regarding vehicle acquisition maintenance and operations extends to the "executive department of the State government". This amendment changes the definition currently found in the rules. The revised definition has CMS' authority limited to agencies that are subject to the Governor. The various constitutional officers and

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

agencies independent of the Governor would not be subject to CMS authority.

16) Information and questions regarding this adopted rule shall be directed to:

Stephen W. Seiple
720 Stratton Office Building
Springfield, IL 62706
(217)782-9669
TDD (217)785-3979

The full text of the Adopted Amendments begin on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND
PROPERTY MANAGEMENT

SUBTITLE D: PROPERTY MANAGEMENT

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 5040

STATE VEHICLES AND GARAGE

SUBPART A: GENERAL

Section
5040.100
5040.110
5040.120
5040.130

Authority
Policy
Applicability
Definitions

SUBPART B: ACQUISITION

Section

5040.200 Acquisition of Vehicles
5040.210 Fuel Economy Standards
5040.220 Availability of Vehicles
5040.230 Agency Purchase
5040.240 Motor Pool Lease or Rental
5040.250 Private Firm Lease or Rental
5040.260 Use of Personal Vehicles on State Business
5040.270 Requests for Acquisition of Vehicles

SUBPART C: USE OF VEHICLES

Section

5040.300 Use of Vehicles
5040.310 Title and Registration
5040.320 License Plates
5040.330 Identification of Vehicles
5040.340 Assignment to Individuals
5040.350 Off-Duty Usage and Personal Use
5040.360 Use and Condition Review
5040.370 Exceptions to Use Rules
5040.380 Motor Pool

SUBPART D: MAINTENANCE

Section

5040.400 Maintenance of Vehicles
5040.410 Scheduled Inspection and Maintenance
5040.420 DMS Garages
5040.430 Warranty Work

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

SUBPART E: MISCELLANEOUS

Section

5040.500 Driver Requirements
5040.510 Insurance
5040.520 Accidents Report Procedures
5040.530 Tickets
5040.540 Credit Card
5040.550 Gasoline Purchase
5040.560 Charges
5040.570 Payment of Charges
5040.580 Credits
5040.590 Cost Information (Repealed)
5040.600 Designation of Vehicle Coordinator
5040.610 DMS Annual Statement
5040.620 Required Forms and Information
5040.630 Agency Signature Authority
5040.700 Rate Schedule

AUTHORITY: Implementing Sections 67.15, 67.16 and 67.22 of the Civil Administrative Code of Illinois [20 ILCS 405/67.15, 67.16, and 67.22]; Sections 1 and 2 of the State Vehicle Mileage Act [30 ILCS 615/1 and 2] and Sections 1 and 2 of the State Vehicle Identification Act [30 ILCS 610/1 and 2] and authorized by Section 67.15 of the Civil Administrative Code of Illinois [20 ILCS 405/67.15].

SOURCE: Adopted at 4 Ill. Reg. 28, p. 173, effective July 1, 1980; amended at 4 Ill. Reg. 30, p. 1225, effective July 1, 1980, by the Department of Administrative Services; transferred to the Department of Central Management Services by Executive Order 82-1, effective July 1, 1982; amended at 7 Ill. Reg. 2483, effective March 1, 1983; codified at 8 Ill. Reg. 8180; amended at 9 Ill. Reg. 13720, effective August 21, 1985; amended at 13 Ill. Reg. 13829, effective August 22, 1989; amended at 15 Ill. Reg. 7553, effective May 7, 1991; amended at 19 Ill. Reg. 14774, effective 06/01/95.

SUBPART A: GENERAL

Section 5040.130 Definitions

"Agency Head"--The top appointed or elected person within a State entity or the person authorized to act in his or her behalf.

"Executive Department"--All departments, boards, commissions, and agencies of the State of Illinois subject to the Governor ~~All-State agencies--boards--commissions--departments--institutions--and--any--other State--entity--but--not--including--the--legislative--or--judicial--branch--of State--government--nor--any--of--its--boards--commissions--or--administrative outgrowths.~~

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"State Employee"--Any person who is paid on a State warrant or providing a service to the State and who has permission from the "agency head" may use a State vehicle.

"Vehicle"--Any automobile, truck, or other conveyance capable of independent locomotion on the roads and highways of the State other than special mobile equipment as defined in Section 1-100 of the Illinois Vehicle Code [625 ILCS 5/1-100] (~~Ill.-Rev.-Stat.-1983-chr-95 1-27-par-1-100~~).

(Source: Amended 06/05/1995 19 Ill. Reg. 14774, effective)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Interconnection
- 2) Code Citation: 83 Ill. Adm. Code 790
- 3) Section Numbers: Adopted Action:

790.5	Amendment
790.10	Amendment
790.105	New Section
790.120	Amendment
790.300	New Section
790.305	New Section
790.310	New Section
790.320	New Section
790.400	Renumbered
- 4) Statutory Authority: Implementing Sections 8-501, 8-502, 8-503, 8-504, 8-506, 13-505.1, and 13-505.5 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/8-501, 8-502, 8-503, 8-504, 8-506, 13-505.1, 13-505.5 and 10-101].
- 5) Effective Date of Amendments: November 1, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? Yes JCAR approval not necessary for this incorporation.
- 8) Date Filed in Agency's Principal Office: October 3, 1995
- 9) Notice of Proposal Published in Illinois Register: May 19, 1995, at 19 Ill. Reg. 6727.
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Difference(s) between proposal and final version:

Table of Contents, heading of Section 790.210: Changed "Agreements" to "Arrangements".

Section 790.400: Previous Section number stricken through and newly-adopted Section number included and underscored.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect? No

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NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: This rulemaking will establish a framework for line side interconnection to supplement the rules on special access and switched access previously adopted in this Part.
- 16) Information and questions regarding these adopted amendments shall be directed to:
Conrad Rubinkowski
Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield, IL 62794-9280
(217)785-8439

The full text of the Adopted Amendments begins on the next page:

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS
TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES
PART 790
INTERCONNECTION

SUBPART A: GENERAL PROVISIONS

Section
790.5
790.10

Applicability
Definitions

SUBPART B: SPECIAL ACCESS AND PRIVATE LINE INTERCONNECTION

Section
790.100
790.105
790.110
790.120
790.130

Special Access and Private Line Interconnection--Interconnection Architecture
Exclusion
Special Access and Private Line Interconnection--Availability of Expanded Interconnection
Special Access and Private Line Interconnection--Standards for Interconnection Arrangements
Special Access and Private Line Interconnection--Pricing and Rate Structure Issues

SUBPART C: SWITCHED TRANSPORT INTERCONNECTION

Section
790.200
790.210
790.220
790.230
790.240

Switched Transport Interconnection--Interconnection Architecture
Switched Transport Interconnection--Availability of Expanded Interconnection
Switched Transport Interconnection--Standards for Expanded Interconnection Arrangements
Switched Transport Interconnection--Pricing and Rate Structure Issues
Switched Transport Interconnection--Implementation of Switched Transport Interconnection

SUBPART D: REPORTING-REQUIREMENTS LINE-SIDE INTERCONNECTION

Section
790.300
790.305
790.310
790.320

Reporting--Requirements Line-side Interconnection--Interconnection Architecture
Temporary Exclusion
Line-side Interconnection--Standards for Interconnection Arrangements
Line-side Interconnection--Implementation of Line-side Interconnection

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SUBPART E: REPORTING REQUIREMENTS

Section 790.400 Reporting Requirements

AUTHORITY: Implementing Sections 8-501, 8-502, 8-503, 8-504, 8-506, 13-505.1, and 13-505.5 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/8-501, 8-502, 8-503, 8-504, 8-506, 13-505.1 13-505.5, and 10-101].

SOURCE: Adopted at 18 Ill. Reg. 6147, effective May 1, 1994; amended at 19 Ill. Reg. 14779, effective NOV 01 1995.

SUBPART A: GENERAL PROVISIONS

Section 790.5 Applicability

This Part shall apply to any telecommunications carrier, as defined in Section 13-202 of the Public Utilities Act ("Act") (~~1117-Rev-Stat-1991-eh-111-279; part-13-202-as-amended-by-P-A-89-8567---effective--May-14-1992~~) [220 ILCS 5/13-202] providing local exchange telecommunications services as defined in Section 13-204 of the Act (~~local-exchange-carrier-or-LEC-that-is-at-least-a~~ ~~inter-LEC-as-defined-in-Section-790.18~~). In addition, this Part shall apply to any entity certificated by the Illinois Commerce Commission ("Commission") under Section 13-401, 13-403, 13-404, or 13-405 of the Act.

(Source: Amended at 19 Ill. Reg. 14779, effective NOV 01 1995.)

Section 790.10 Definitions

"Bona fide request" is a request by which an interconnector states, in writing, that it will purchase "loops" and/or "ports" within six months after the date of the request.

"Bona fide request for loop subelements" is a request by which an interconnector states, in writing, that it will purchase specific "loop subelements" within six months after the date of the request.

"Central office" or "CO" means a location within a local exchange area where subscriber lines or interoffice trunks are connected to a local exchange carrier's switch.

"Competitive access provider" or "CAP" means any entity other than the principal provider of telecommunications service that is certificated to provide telecommunications services within the local exchange.

"Contribution charge" means a charge that recovers specifically identified subsidies or non-cost based allocations that are embedded

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in rates for special access or private line services or switched transport services.

"Cross-connect charge" means the amount of money assessed the interconnecting parties on a monthly basis by the LEC for connection to LEC services or elements of services at a location described in Section 790.120(f).

"End-user" means any entity other than a telecommunications carrier that requires access to a LEC location described in Section 790.120(f) in order to connect its own communications equipment for the purposes of providing service to its own community of users.

"FCC Expanded Interconnection Rule" means the order entered by the Federal Communications Commission ("FCC") on September 17, 1992, in CC Docket 91-141, "In the Matter of Expanded Interconnection with Local Telephone Company Facilities," and amended by the FCC on December 18, 1992, and on September 2, 1993, in CC Dockets 91-141 and 90-286 in the "Second Report and Order and Third Notice of Proposed Rulemaking, and as amended" by the FCC in the "Second Memorandum Opinion and Order on Reconsideration in CC Docket 91-141, released on September 2, 1993. (47 CFR Section 64.1401 - 64.1402; 47 CFR Section 65.702; 47 CFR Section 69.4, 69.121 - 69.123 as of October 1, 1993; this incorporation does not include any later amendments or editions.)

"Incumbent local exchange carrier" is a LEC which provided local exchange services in an exchange on or before December 31, 1993.

"Interconnection" means the point in a network where one telecommunications carrier or end-user interfaces with the local exchange carrier's network or the network provided by another telecommunications carrier under the provisions of this Part.

"Interconnector" is a telecommunications carrier or end-user that has interfaced with the local exchange carrier's network under the provisions of this Part.

"Interexchange carrier" or "IXC" means any telecommunications carrier that is certificated to provide interexchange services (see Section 13-403 of the Act) within Illinois as defined in Section 13-205 of the Act.

"Local exchange carrier" or "LEC" means a telecommunications carrier under the Act that provides ~~that-is-a-principal-provider-of~~ local exchange telecommunications services as defined in Section 13-204 of the Act.

"Loop" or "unbundled transport path" is a transmission path capable of

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transporting analog or digital signals from the network interface at a customer's premises to a distribution frame, digital signal cross-connect panel, or similar demarcation which is accessible to the interconnector.

"Loop subelements" are components of the "loop" offered as individual and separately available services and/or separately available interconnector points.

"Physical collocation" means the type of interconnection provided by an LEC to an interconnector where the interconnector locates its equipment within space assigned by the LEC for the interconnector's exclusive use and where the interconnector has physical access and control over its equipment subject to the provisions of this Part and any applicable tariff.

"Port" or "unbundled switching facility" is a mechanism allowing access to the functions of the switch including, but not limited to, dial tone generation, an individual network address, and the ability to originate and/or terminate both local and interexchange calls. In addition, port services include access to network support functions such as 911 and directory assistance services, as well as a directory listing as described in 83 Ill. Adm. Code 735.180, whenever such services are offered to a comparable bundled switched service. Port services also include the ability to transport analog or digital signals from the switch to a demarcation point which is accessible to the interconnector.

"Serving wire center" means the location in the LEC network that serves a telecommunications carrier's (such as an interexchange carrier) point of presence.

"Special access or private line" means a transmission path that connects customer-designated premises directly through a local exchange carrier's hub or hubs where bridging or multiplexing functions are performed, or to connect a customer-designated premises and a serving office, and includes all exchange access not utilizing the local exchange carrier's end office switches.

"Switched access" means a two-point communications path between a customer-designated premises and an end-user's premises that provides for the use of common terminating, switching, and trunking facilities and for the use of common subscriber plant of the local exchange carrier and provides for the ability to originate calls from an end-user's premises to a customer-designated premises, and to terminate calls from a customer-designated premises to an end-user's premises in the local access transport area where it is provided.

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"Tier 1 LEC" means a local exchange carrier having annual gross revenues from regulated telecommunications operations of \$100 million or more.

"Virtual collocation" refers to the type of interconnection provided by an LEC to an interconnector that is economically, technically, and administratively comparable to the manner in which the LEC's facilities interconnect with its own network. It may, at the interconnector's discretion, include an arrangement and where the interconnector is provided equipment in a location described in Section 790.120(f) under an arrangement whereby the interconnector may not have ownership of the equipment and does not have physical access or control, other than through remote monitoring, subject to the provisions of this Part and any applicable tariff.

(Source: Amended 19 Ill. Reg. 1479, effective Nov 01 1995)

SUBPART B: SPECIAL ACCESS AND PRIVATE LINE INTERCONNECTION

Section 790.105 Exclusion

Subpart B shall not be applicable to any telecommunications carrier, as that term is defined in Section 13-202 of the Act, which is not a Tier-1 LEC.

(Source: Added at 19 Ill. Reg. 1479, effective Nov 01 1995)

Section 790.120 Special Access and Private Line Interconnection--Standards for Interconnection Arrangements

- a) Space allocation and exhaustion. In LEC locations that are tariffed to provide physical collocation, LECs shall:
- 1) Offer space on a first-come, first-served basis to all interconnectors;
 - 2) Offer a physical collocation arrangement until such space available for interconnection is filled to capacity;
 - 3) Not reject subsequent interconnection requests due to lack of space, but shall provide a virtual collocation arrangement in lieu of the physical collocation arrangement unless the LEC has obtained a waiver under Section 790.110(c); and
 - 4) Include the demand for interconnection when planning to remodel an existing location or building a new location in the same manner as any other demand for other services is taken into consideration.
- b) Points of interconnection. When virtual collocation is provided, LECs shall specify an interconnection point or points as close as possible to the location in which interconnectors are requesting

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arrangements as described in this Subpart. For purposes of line-side interconnection, LECs shall also allow virtual collocation arrangements in which the interconnector requires no central office equipment other than a digital or analog cross connection to the specified "loop" or "port" demarcation point. This requirement is subject to the waiver provision of Section 790.320(e).

(Source: Former Section 790.300 renumbered to Section 790.400, new Section added at 19 Ill. Reg. 14779, effective NOV 01 1995)

Section 790.305 Temporary Exclusion

Prior to January 1, 1998, Subpart D shall not be applicable to any incumbent LEC, which is not also a Tier-1 LEC as those terms are defined in Section 790.10.

(Source: Added at 19 Ill. Reg. 14779, effective NOV 01 1995)

Section 790.310 Line-side Interconnection--Standards for Interconnection Arrangements

a) All switch-associated grades-of-service and installation, repair and maintenance intervals which apply to a LEC's bundled local exchange end-user access services shall also apply to that LEC's corresponding unbundled port services, unless the grades-of-service or intervals are materially improved due to the unbundling, in which case the improved grades-of service intervals shall apply.

b) All transport-associated grades-of-service and installations, repair and maintenance intervals which apply to a LEC's bundled local exchange end-user access services also shall apply to that LEC's corresponding unbundled loop services, unless the grades-of-service or intervals are materially improved due to the unbundling in which case the improved grades-of-service or intervals shall apply.

c) All switch-associated optional features, functions, services and capabilities available with each bundled local exchange end-user access service shall be available under identical rates, terms, and conditions for the corresponding unbundled port services.

d) All transport-associated optional features, functions, services and capabilities available with each bundled local exchange end-user access service shall be available under identical rates, terms, and conditions for the corresponding unbundled loop services.

(Source: Amended at 19 Ill. Reg. 14779, effective NOV 01 1995)

Section 790.320 Line Side Interconnection--Implementation of Line Side

interconnection. These interconnection points must be physically accessible by both the telecommunications carrier and interconnectors on a non-discriminatory basis. Under virtual collocation, the interconnection point shall constitute the demarcation between interconnector and the LEC ownership of facilities.

c) Points of entry. LECs shall provide at least two separate points of entry to a location for the interconnector's cable facilities whenever there are at least two entry points for LEC cable facilities.

d) Equipment placed by or for interconnectors. Expanded interconnection requirements shall apply only to CO equipment needed to terminate or aggregate basic transmission facilities. The LECs are not required to place or allow the placement of other types of equipment by interconnectors (such as switching equipment, enhanced services, or customer premise equipment) in the location under either a physical collocation arrangement or a virtual collocation arrangement.

e) Interconnection of microwave technologies. Tier 1 LECs shall provide interconnection for microwave technology. Tier 1 LECs may petition for, and the Commission shall grant, a waiver of this subsection if the FCC has granted a waiver of the requirement to interconnect microwave technology or, after hearings, the Commission finds that the LEC has demonstrated that the CO cannot physically accommodate the equipment or it is not technologically feasible to provide the expanded interconnection.

f) Locations at which interconnection is available. LECs shall provide expanded interconnection at serving wire centers, end offices (central offices), and any other points which the telecommunications carriers use as a rating point (a point used in calculating the length of interoffice special access links).

g) Shared use of switched and special access services. Interconnectors shall not be allowed to use intrastate special access expanded interconnection offerings to connect their transmission facilities with the local exchange carrier's intrastate switched services until the LEC has an effective tariff on file with the Commission implementing an interim local transport rate structure at the intrastate level in response to the order adopted by the FCC on September 17, 1992 in CC Docket 91-213, "In the Matter of Transport Rate Structure and Pricing."

(Source: Amended at 19 Ill. Reg. 14779, effective NOV 01 1995)

SUBPART D: REPORTING-REQUIREMENTS LINE-SIDE INTERCONNECTION**Section 790.300 Reporting-----Requirements Line-side Interconnection--Interconnection Architecture**

LECs offering "loops", "ports", or "loop subelements" pursuant to Section 790.310(a), (b), or (c), shall offer interconnection to such elements through

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Interconnection

- a) A LEC shall file intrastate tariffs offering "loops" and/or "ports" within 180 days after receiving a bona fide request.
- b) LECs shall file intrastate tariffs offering "loop subelements" within 180 days after receiving a "bona fide request for loop subelements."
- c) After a LEC has offered "loops", "ports", or "loop subelements" in its tariff for a particular exchange, it must file intrastate tariffs offering those same elements in other exchanges within 60 days after a "bona fide request" for those services in another exchange.
- d) Nothing in this Section shall preclude a LEC from filing intrastate tariffs offering "loops", "ports", or "loop subelements" before receiving a bona fide request.
- e) LECs may petition for a waiver of the requirement to provide "loops", "ports", or "loop subelements" within 60 days after receiving a bona fide request. The petitioner must demonstrate that offering line-side interconnection or offering line-side interconnection in the manner set forth in this Subpart is not technically or economically practicable, considering demand for the service, and/or offering line-side interconnection would be contrary to the public interest.

(Source: NOV 1995 19 Ill. Reg. 14779, effective NOV 1995)

SUBPART E: REPORTING REQUIREMENTSSection 790.400760-360 Reporting Requirements

- a) Each LEC subject to this Part shall file with the Commission reports on interconnection. These reports shall be filed on May 1, 1996 and May 1, 1998.
- b) The reports required by this Section shall identify:
 - 1) Entities using expanded interconnection in the service areas of the LEC; and
 - 2) The location at which each interconnection occurs.

(Source: Section 790.400 renubered from 790.300 at 19 Ill. Reg. 14779, effective NOV 1995)

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- 1) Heading of the Part: Presubscription
- 2) Code Citation: 83 Ill. Adm. Code 773
- 3) Section Numbers: Adopted Action:

773.5	New Section
773.10	New Section
773.100	New Section
773.110	New Section
773.120	New Section
773.130	New Section
773.140	New Section
773.150	New Section
773.160	New Section
773.170	New Section
- 4) Statutory Authority: Implementing Section 13-403 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-403 and 10-101].
- 5) Effective Date of Rules: November 1, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? Yes JCAR approval not necessary.
- 8) Date Filed in Agency's Principal Office: October 3, 1995
- 9) Notice of Proposal Published in Illinois Register: May 19, 1995, at 19 Ill. Reg. 6737.
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version:

Heading of Section 773.150 now reads the same in both table of contents and text of rules.

"within one year after the effective date of this Part" has been replaced with "by November 1, 1996" wherever that phrase appeared in the proposed rules.

"the effective date of this Part" has been replaced by "November 1, 1995" wherever that phrase appeared in the proposed rules.
- 12) Have all the changes agreed upon by the agency and JCAR been made as

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indicated in the agreement letter issued by JC&R? Yes

13) Will these rules replace emergency rules currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: Under current dialing arrangements, the local exchange telecommunications carrier ("LEC") carries calls that are dialed using the standard seven digit or the ten digit dialing arrangements. Other carriers are legally permitted to handle this traffic, but because of the technical switch characteristics of the LEC network, customers must dial access codes to reach them. These rules will establish a system for customer presubscription by which a customer's inter-market service area calls are carried by an interexchange carrier of the customer's choice and its intramsa presubscribed calls are carried, at the customer's choice, by the LEC (or a primary toll carrier), by the IXC chosen to carry intermsa calls, or by another IXC, without the use of access codes.

16) Information and questions regarding these adopted rules shall be directed to:

Conrad Rubinkowski
Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield, IL 62794-9280
(217)785-8439

The full text of the Adopted Rules begins on the next page:

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TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 773
PRESUBSCRIPTION

Section	
773.5	Applicability
773.10	Definitions
773.100	Obligation to Provide Presubscription
773.110	Implementation
773.120	Intramsa Calls Not Subject to Presubscription
773.130	Waivers and Extensions
773.140	Customer Notification and Presubscription Changes
773.150	Interexchange Carrier Participation
773.160	Presubscription Charges and Cost Recovery
773.170	Information Requirements

AUTHORITY: Implementing Section 13-403 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-403 and 10-101].

SOURCE: ~~1995~~ at 19 Ill. Reg. ~~14, 189~~, effective

Section 773.5 Applicability

- a) This Part shall apply to any telecommunications carrier, as defined in Section 13-202 of the Public Utilities Act ("Act") [220 ILCS 5/13-202] providing local exchange telecommunications service as defined in Section 13-204 of the Act or interexchange telecommunications service as defined in Section 13-205 of the Act. In addition, this Part shall apply to any entity certificated by the Illinois Commerce Commission ("Commission") under Section 13-403 or Section 13-405 of the Act.
- b) This Part shall not apply to any telecommunications carrier that is subject to 83 Ill. Adm. Code 760, "Cellular Radio Exclusion."

Section 773.10 Definitions

"1-PIC" is a presubscription method in which a customer's presubscribed calls are carried by the interexchange carrier (IXC) of the customer's choice, without the use of access codes.

"2-PIC" is a presubscription method in which a customer's inter-market service area (MSA) calls are carried by an IXC of the customer's choice and its intramsa presubscribed calls are carried, at the customer's choice, by the local exchange carrier (LEC) (or a primary

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toll carrier (PTC)), by the IXC chosen to carry interMSA calls, or by another IXC, without the use of access codes.

"Bona fide request" is a written request submitted to a LEC by an IXC, in which the IXC requests that the LEC provide presubscription consistent with this Part to customers within an exchange(s) and states that it intends to offer intramsa usage services utilizing presubscription to customers in the exchange(s) within six months after the bona fide request, or by November 1, 1996, whichever is later.

"Customer" means a subscriber to a LEC switched network access service, either a bundled network access line or trunk or an unbundled port.

"Customer list" means an identification of the name, billing address and listed or published telephone number of each customer. It does not include an unpublished or unlisted telephone number.

"Equal access" has the meaning given it in Appendix B of the Modification of Final Judgment entered by the United States District Court on August 24, 1982 in United States v. Western Electric, Civil Action No. 82-0192 (D.D.C. 1982), as amended by the court in its orders issued prior to November 1, 1995.

"Equal access exchange" means an exchange in which the LEC has complied with and implemented federal equal access requirements.

"Incumbent local exchange carrier" or "incumbent LEC" means a LEC that provided facilities-based switched local exchange telecommunications services within an exchange as of December 31, 1993.

"Interexchange carrier" or "IXC" means a telecommunications carrier under the Act that provides interexchange telecommunications services as defined in Section 13-205 of the Act. A telecommunications carrier is both an IXC and a LEC if it provides both interexchange and facilities-based local exchange telecommunications services.

"Local exchange carrier" or "LEC" means a telecommunications carrier under the Act that provides facilities based local exchange telecommunications services. A telecommunications carrier is both an IXC and a LEC if it provides both interexchange and facilities-based local exchange telecommunications services.

"Modified 1-PIC" is a presubscription method in which a customer's interMSA calls are carried by an IXC of the customer's choice and its intramsa presubscription calls are carried, at the customer's choice, by either the LEC (or a PTC) or by the IXC chosen to carry interMSA

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calls, without the use of access codes.

"New local exchange carrier" or "new LEC" means a LEC that did not provide facilities-based switched local exchange telecommunications services within a specified geographic area as of December 31, 1993.

"Presubscription" is a procedure by which a customer can pre-designate one or more IXCs to access for its presubscribed switched intramsa and interMSA calls, without dialing an access code.

"Primary interexchange carrier" or "PIC" means a presubscribed IXC that carries presubscribed calls, without the use of access codes, for a customer following equal access or presubscription implementation.

"Primary toll carrier" or "PTC" means the carrier that was made responsible for intramsa toll rates, intramsa compensation, and coordination of the intramsa toll network by the Sixteenth Interim Order, July 2, 1985, and the Twenty-Fifth Interim Order, July 23, 1986, in Commission Docket 83-0142.

Section 773.100 Obligation to Provide Presubscription

- a) Each LEC shall provide presubscription consistent with this Part upon the LEC's own initiative or upon a bona fide request, using the 2-PIC method.
- b) Each LEC providing presubscription within an exchange(s) using the 1-PIC method as of December 31, 1993 is exempted from the requirements of this Part as long as it continues to provide 1-PIC presubscription.
- c) Presubscription shall be provided consistent with this Part and in accordance with 47 CFR Section 64.1100 (October 1994 Edition) and the following Federal Communications Commission ("FCC") Orders: Investigation of Access and Divestiture Related Tariffs, CC Docket 83-1145, Phase I, Memorandum Opinion and Orders, 101 FCC 2d 911 (1985); 101 FCC 2d 935 (1985); and Memo No. 6714, released August 30, 1985; and Policies and Rules Concerning Changing Long Distance Carriers, CC Docket No. 91-64, Report and Order, 7 FCC Rcd 1038 (1992), Erratum, DA 92-101, released February 4, 1992. No other amendment or edition of the foregoing rules or Orders are incorporated in this Part.

Section 773.110 Implementation

- a) Each incumbent LEC shall, within 120 days after receiving a bona fide request, file intrastate tariffs to provide presubscription consistent with this Part in its equal access exchanges within six months after receiving the bona fide request or by November 1, 1996, whichever is later.
- b) For each incumbent LEC exchange that was not an equal access exchange

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as of November 1, 1995, the incumbent LEC shall file intrastate tariffs to provide presubscription consistent with this Part effective at the time that equal access is implemented within the exchange.

- c) Each new LEC shall, within 120 days after receiving a bona fide request, file intrastate tariffs to provide presubscription consistent with this Part effective within six months after receiving the bona fide request or by November 1, 1996, whichever is later.
- d) Each LEC may negotiate implementation schedules that differ from the requirements in this Section, with the agreement of all IXCs that make bona fide requests within 60 days of the first bona fide request.

Section 773.120 Intramsa Calls Not Subject to Presubscription

- a) In its intrastate presubscription tariff, each LEC shall specify which intramsa switched calls are not subject to presubscription for each of its exchanges.
- b) For each incumbent LEC exchange, intramsa calls shall not be subject to presubscription if they originate and terminate within the geographic area within which the LEC provides calling through one or more of the following: flat rate service, residence untimed calling and usage measured service bands that do not exceed 15 miles from the exchange wire center, and/or flat rate or measured Extended Area Service, as defined in the LEC's tariffs.
- c) The following intramsa calls shall not be subject to presubscription: local directory assistance (e.g., 411), local repair (e.g., 611), emergency (911), 0- operator services, and local pay-per-call (e.g., 976) calls. Calls using the 500, 700, 800, or 900 service access codes shall not be subject to this Part.
- d) For incumbent LECs, 0+ calls shall not be subject to presubscription if they originate and terminate within the geographic area described in Section 773.120(b).
- e) All intramsa switched calls not subject to presubscription and dialed without the use of access codes shall be carried by the LEC. Those calls dialed using a 500, 700, 800, or 900 service access code shall not be subject to this Part.

Section 773.130 Waivers and Extensions

- a) A LEC may petition for a waiver of the requirement to provide presubscription consistent with Section 773.100 on the basis that the 2-PIC method is not technically feasible or that, under current conditions, the costs are expected to substantially exceed reasonably anticipated benefits. The Commission, after hearing, shall grant a waiver and shall allow the modified 1-PIC method to be used upon a showing that the 2-PIC method is not technically feasible or that its costs are expected to substantially exceed reasonably anticipated benefits.
- b) A LEC may petition for an extension of the timing requirements in

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Section 773.110 on the basis that presubscription cannot reasonably be provided within the given exchange(s) within the required time frame. The Commission, after hearing, shall grant an extension to a specified date upon a showing that presubscription cannot reasonably be provided within the given exchange(s) within the time frame required by Section 773.110 and that the date specified in the extension can reasonably be met.

- c) Any LEC or IXC may petition for a waiver of the requirements in Section 773.120 on the basis that the requirements regarding calls not subject to presubscription do not meet customers' calling needs and/or do not preserve or promote effective competition. The Commission, after hearing, shall grant a waiver upon a showing that the requirements regarding calls not subject to presubscription do not meet customers' calling needs and/or do not preserve or promote effective competition. In determining whether to grant the waiver, the Commission shall consider the financial impact and the technical feasibility of alternatives.

Section 773.140 Customer Notification and Presubscription Changes

- a) For each incumbent LEC exchange that was an equal access exchange as of November 1, 1995, and for each new LEC, the LEC shall provide written notice to its customers of the availability of presubscription, as follows:
 - 1) The notice shall be provided to existing customers at least 30 days prior to the implementation of presubscription consistent with this Part;
 - 2) The notice shall be provided to new customers who request network access service between the time the notice is distributed and the date presubscription is implemented consistent with this Part, at the time they request service;
 - 3) The notice shall describe presubscription, the customers' choices, how to select among the presubscription choices, and any related charges in a manner that does not attempt to influence customers regarding their selections.
- b) For each incumbent LEC exchange that was not an equal access exchange as of November 1, 1995, balloting shall be required for both interMSA and intramsa usage, as follows:
 - 1) Balloting shall be in accordance with the FCC's Memorandum Opinion and Orders in CC Docket No. 83-1145, Phase I, and balloting shall include both interMSA and intramsa choices;
 - 2) Customers' intramsa usage subject to presubscription shall not be allocated, and shall continue to be provided by the incumbent LEC (or PTC) until the customer selects a different intramsa presubscription choice.
 - c) For new customers requesting network access service after presubscription consistent with this Part is implemented in an exchange, the LEC or other carrier receiving the request shall inform

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the customer, when service is requested, of its presubscription choices and shall provide the following information before either asking for the customer's presubscription selections and/or marketing its own interexchange services:

- 1) The customer service representative shall inform the new customer that the customer can select from a number of IXCs for presubscribed interexchange service, and shall describe the available presubscription choices in a manner that does not attempt to influence customers regarding their selections;

- 2) The representative shall offer to provide the names of IXCs serving that office in random order as well as the telephone numbers of the IXCs.

If the customer indicates its selections, the representative shall not solicit the customer further for the carrier's interexchange services. Customers shall retain their existing intramsa dialing arrangements as of November 1, 1995 until they make presubscription selections, and may change their selections at any time, subject to charges specified in Section 773.160. Procedures for intramsa and intermsa selection changes shall be in accordance with 47 CFR Section 64.1100 (October 1994 Edition) and the following Federal Communications Commission ("FCC") Orders: Investigation of Access and Divestiture Related Tariffs, CC Docket 83-1145, Phase I, Memorandum Opinion and Orders, 101 FCC 2d 911 (1985); 101 FCC 2d 935 (1985); and Mimeo No. 6714, released August 30, 1985; and Policies and Rules Concerning Changing Long Distance Carriers, CC Docket No. 91-64, Report and Order, 7 FCC Rcd 1038 (1992), Erratum, DA 92-101, released February 4, 1992. No other amendment or edition of the foregoing rules or Orders are incorporated in this Part.

Section 773.150 Interexchange Carrier Participation

Carriers (including LECs and IXCs) may carry presubscribed intramsa calls if they have effective intrastate tariffs to provide such services and if they have made the necessary arrangements with the LEC.

Section 773.160 Presubscription Charges and Cost Recovery

- a) Each LEC shall allow customers to change presubscription selections once at no charge within six months following implementation within an exchange of presubscription consistent with this Part, and shall allow each new customer to select presubscription arrangements at no charge at the time network access service is initiated. At other times, each LEC may impose a reasonable, tariffed charge for changes in a customer's presubscription selections.
- b) Each LEC may seek to recover reasonable separated intrastate costs limited to initial incremental expenditures related directly to the provision of presubscription that would not be required absent the provision of presubscription consistent with this Part.

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- c) In determining presubscription cost recovery, each LEC shall amortize all separated intrastate presubscription costs over at least a three year period.

- d) Each LEC that provides noncompetitive services and is not an average schedule company shall use the following procedures for recovery of intrastate presubscription costs:

- 1) A tariffed presubscription cost recovery charge shall be applied to all switched originating intramsa intrastate minutes of use subject to presubscription and originated by the LEC's customers, whether carried by the LEC or another IXC. If the LEC is a PTC, such charges shall not apply to customers of other LECs with which the LEC has a PTC arrangement;

- 2) The LEC shall submit the proposed presubscription cost recovery charge and full cost documentation as part of its tariff filing made to implement presubscription consistent with this Part;

- 3) In non-equal access exchanges where both inter- and intramsa equal access are implemented concurrently, LECs should develop separate inter- and intramsa cost recovery charges, consistent with FCC requirements and this Part.

- e) Each LEC that is an average schedule company shall, through its concurrence in the Illinois Small Company Exchange Carrier Association (ISCECA) intrastate switching tariffs, use the following procedures for recovery of intrastate presubscription costs:

- 1) An addition to the local switching rates shall be applied to all switched intrastate minutes of use subject to presubscription and originated by the LEC's customers;

- 2) ISCECA shall submit the proposed addition to its local switching rates and full cost documentation through a tariff filing made to recover intrastate presubscription costs consistent with this Part;

- 3) The addition to the local switching rates shall apply for the amortization period only. At the end of the amortization period, ISCECA shall file the appropriate local switching tariff reflecting the removal of such addition to its local switching rates.

Section 773.170 Information Requirements

- a) Within 15 days after receiving a bona fide request, a LEC shall notify all IXCs currently purchasing Feature Group D access service ("FGD service") from the LEC in the affected exchange(s) of the bona fide request.

- b) Each LEC shall provide the following information to all IXCs purchasing FGD service or which place orders for FGD service from the LEC in each exchange where presubscription consistent with this Part is to be implemented:

- 1) Presubscription conversion schedules, to be provided at least three months prior to the cutoff date;

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- 2) Ordering procedures, terms, and conditions for the IXC to be eligible for customer presubscription to the IXC, to be provided at least three months prior to the cutover date;
- 3) Customer lists, within 15 business days after receipt of a written request from an IXC that has made a bona fide request or has otherwise established eligibility for customer presubscription, to be used by the IXC only in connection with presubscription solicitation. Customer lists shall be provided upon request for a period of six months prior to and six months after the implementation of presubscription in an exchange.
- c) Each IEC shall serve all presubscription tariff filings, waiver petitions, and extension of time petitions on all IXCs currently purchasing FGD service from the IEC in the affected exchange(s) and on all other entities that have requested such service.

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- 1) Heading of the Part: Purchased Gas Adjustment Clause
- 2) Code Citation: 83 Ill. Adm. Code 525
- 3) Section Numbers: Adopted Action:

525.10	New Section
525.20	New Section
525.30	New Section
525.40	New Section
525.50	New Section
525.60	New Section
525.70	New Section
- 4) Statutory Authority: Implementing Section 9-220 and authorized by Section 10-101 of the Public Utilities Act [20 ILCS 5/9-220 and 10-101].
- 5) Effective Date of Rules: November 1, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: October 3, 1995
- 9) Notice of Proposal Published in Illinois Register: October 21, 1995, at 18 Ill. Reg. 15478.
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version:

Section 525.10(a): After "seasonal period", add "The Gas Charge(s) shall be applied either to each therm billed during the effective month or to each therm delivered during the effective month. The utility shall elect whether a billed or a delivered method shall be used, and such election shall remain in effect until a utility request to effect a change is approved by the Commission. Each Gas Charge shall be determined in accordance with Section 525.60."

Section 525.10(c): After the words "service rendered" add "or billed". After the end of the sentence, add "The reports required by this Section must be postmarked by the twentieth day of the filing month. A monthly report postmarked after that date but prior to the first day of the effective month will be accepted only if it corrects an error or errors from a timely filed report for the same effective month. Any other report postmarked after that date will be accepted only if submitted as a special permission request under the provisions of Section 9-201 (a) of the Public

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14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: The repeal of the current rules on purchased gas adjustments and the adoption of new rules on the subject reflect the changes that have taken place in the gas utility industry since the adoption of the current rules. Because the current clause predates the significant changes such as transportation customers and alternative suppliers, the current PGA Clause cannot always be applied to the types of situations facing gas utilities today.

16) Information and questions regarding these adopted rules shall be directed to:

Conrad Rubinkowski
Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield, IL 62794-9280
(217)785-8439

The full text of the Adopted Rules begins on the next page:

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Utilities Act [220 ILCS 5/9-201 (a)].

Section 525.10: Add new subsection (d).

Section 525.40(a)(4): Delete current language of subsection (a)(4) and replace with the following: "other out-of-pocket direct non-commodity costs, related to hydrocarbon procurement, transportation, supply management, or price management, net of any associated proceeds, and Federal Energy Regulatory Commission-approved charges required by pipeline suppliers to access supplies or services described in subsections (a)(1) through (3) of this Section."

Section 525.40(d): After "Section 525.40(a)", add "This subsection shall not apply to transactions subject to rates contained in tariffs on file with the Commission, or in contracts entered into pursuant to such tariffs unless otherwise specifically provided for in the tariff."

Section 525.40(d): Change "Section 525.40(a)" to "subsection (a) of this Section".

Section 525.50: Subsection (a)(1) revised as follows:

1) refunds, directly billed pipeline surcharges, unamortized balances of adjustments in effect as of the utility's implementation date, and...

Section 525.60(a): Insert the words "or billed" between the words "service rendered", and "during the effective month".

Section 525.60(b): In the definition of Factor O, replace "including any interest or other carrying charge authorized by the Commission" with the following:

including interest charged at the rate established by the Commission under 83 Ill. Adm. Code 280.70(e)(1) from the end of the reconciliation year to the order date in the reconciliation proceeding. If the Commission determines it is necessary to amortize the additional over- or under-recovery, additional interest shall be charged in the same manner as that prescribed in Section 525.50 (b)

Section 525.60(b): In the definition of Factor T, after "rendered" add "or billed".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these rules replace emergency rules currently in effect? No

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TITLE 83: PUBLIC UTILITIES
 CHAPTER I: ILLINOIS COMMERCE COMMISSION
 SUBCHAPTER d: GAS UTILITIES

PART 525
 PURCHASED GAS ADJUSTMENT CLAUSE

Section	
525.10	Applicability
525.20	Definitions
525.30	Cost Basis
525.40	Recoverable Gas Costs
525.50	Adjustments to Gas Costs
525.60	Determination of Gas Charge(s)
525.70	Annual Reconciliation

AUTHORITY: Implementing Section 9-220 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/9-220 and 10-101].

SOURCE: Adopted at 6 Ill. Reg. 12437, effective September 30, 1982; emergency amendment at 7 Ill. Reg. 2002, effective February 1, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 7919, effective June 22, 1983; codified at 8 Ill. Reg. 12186; Part repealed and replaced by new Part adopted at 19 Ill. Reg. 14779, effective NOV 01 1995.

Section 525.10 Applicability

- a) The Gas Charge(s) shall be applied to all therms associated with the service classifications so identified in the filed rate schedules of all gas public utilities operating in the State of Illinois. If a utility elects to establish separate Gas Charge(s) for recovery of costs of a seasonal nature, such Gas Charge(s) shall be applied to therms associated with the appropriate seasonal period. The Gas Charge(s) shall be applied either to each therm billed during the effective month or to each therm delivered during the effective month. The utility shall elect whether a billed or a delivered method shall be used, and such election shall remain in effect until a utility request to effect a change is approved by the Commission. Each Gas Charge shall be determined in accordance with Section 525.60.
- b) The number and design of Gas Charge(s) applicable to a given service may differ between services. For example, some services may include a single Gas Charge while other services may include separate commodity and non-commodity Gas Charges.
- c) Utilities shall report monthly, in a format designated by the Illinois Commerce Commission ("Commission"), the Gas Charge(s), calculated under the provisions of Section 525.60 to be applied to service rendered or billed during the effective month. The reports required by this Section must be postmarked by the twentieth day of the filing

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- month. A monthly report postmarked after that date but prior to the first day of the effective month will be accepted only if it corrects an error or errors from a timely filed report for the same effective month. Any other report postmarked after that date will be accepted only if submitted as a special permission request under the provisions of Section 9-201(a) of the Public Utilities Act [220 ILCS 5/9-201(a)].
- d) A utility shall reflect the requirements of this Part on the first day of the utility's reconciliation year that begins on or after January 1, 1996. A utility implementing this Part after January 1, 1996, shall, from January 1, 1996, until the first day of its reconciliation year, file all tariffs pertaining to the utility's purchased gas adjustment clause in conformance with Section 9-201 of the Public Utilities Act [220 ILCS 5/9-201].

Section 525.20 Definitions

"Base period" shall mean the effective month or the remaining months in the reconciliation year which includes the effective month.

"Effective month" shall mean the month following the filing month, during which the Gas Charge(s) will be in effect.

"Filing month" shall mean the month in which a Gas Charge(s) is determined by the utility and filed with the Commission.

"Gas used by the utility" shall include all gas used by the utility except gas utilized in the manufacture of gas through a reforming process, and shall include gas furnished to municipalities or other governmental authorities without reimbursement in compliance with franchise, ordinance or similar requirements.

"Reconciliation year" shall mean the 12-month period defined in each utility's tariff for which actual gas costs and associated revenues are to be reconciled.

"System average cost of gas" shall mean the weighted average cost per therm of gas estimated to be purchased, withdrawn from storage, and manufactured during the base period or reconciliation year.

Section 525.30 Cost Basis

The Gas Charge(s) shall represent the utility's estimate of recoverable gas costs (as prescribed in Section 525.40) to be incurred during the base period, with an adjustment to such costs through use of Adjustment Factors (as prescribed in Sections 525.50, 525.60 and 525.70). Any Gas Charge(s) established to recover commodity gas costs (separately or in conjunction with non-commodity gas costs) shall use an estimate of the recoverable costs to be incurred during the effective month. Any Gas Charge(s) established to recover

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only non-commodity gas costs shall use an estimate of the recoverable costs to be incurred during the remaining months of the reconciliation year.

Section 525.40 Recoverable Gas Costs

a) Costs recoverable through the Gas Charge(s) shall include the following:

- 1) costs of natural gas and any solid, liquid or gaseous hydrocarbons purchased for injection into the gas stream or purchased as feedstock or fuel for the manufacture of gas, or delivered under exchange agreements;
- 2) costs for storage services purchased;
- 3) transportation costs related to such natural gas and any solid, liquid or gaseous hydrocarbons and any storage services; and
- 4) other out-of-pocket direct noncommodity costs, related to hydrocarbon procurement, transportation, supply management, or price management, net of any associated proceeds, and Federal Energy Regulatory Commission-approved charges required by pipeline suppliers to access supplies or services described in subsections (a)(1) through (3) of this Section.

b) Determinations of the Gas Charge(s) shall exclude the estimated cost of gas to be used by the utility, based on the system average cost of gas for the effective month.

c) The cost of gas estimated to be withdrawn from storage during the base period shall be included in the Gas Charge(s).

d) Recoverable gas costs shall be offset by the revenues derived from transactions at rates that are not subject to the Gas Charge(s) if any of the associated costs are recoverable gas costs as prescribed by subsection (a) of this Section. This subsection shall not apply to transactions subject to rates contained in tariffs on file with the Commission, or in contracts entered into pursuant to such tariffs, unless otherwise specifically provided for in the tariff. Taking into account the level of additional recoverable gas costs that must be incurred to engage in a given transaction, the utility shall refrain from entering into any such transaction that would raise the Gas Charge(s).

e) Revenues from penalty charges or imbalance charges, which the Commission has previously approved to prevent unauthorized actions of customers, shall offset gas costs.

f) Revenues from "cash-out" schedule, which the Commission has previously approved for transportation customers' monthly imbalances, shall offset gas costs. Under such schedules, the utility can charge customers for gas used in excess of the amount contracted for, or can refund to customers the avoided cost of gas not taken. Refunds by the utility pursuant to any such "cash-out" schedule shall be treated as gas costs recoverable under this Section.

Section 525.50 Adjustments to Gas Costs

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a) The Adjustment Factor (Factor A) shall be treated as an addition to or an offset against actual gas costs. This Adjustment Factor shall include the total of the following items:

- 1) refunds, directly billed pipeline surcharges, unamortized balances of adjustments in effect as of the utility's implementation date, and other separately designated adjustments;
- 2) the cumulative difference between actual recoverable gas costs and purchased gas adjustment ("PCA") recoveries for months preceding the filing month; and
- 3) the unamortized portion of any Adjustment Factor(s) included in prior determinations of the Gas Charge(s).

b) If a utility determines the need to amortize the Adjustment Factor over a period longer than the base period, this Adjustment Factor shall be amortized over a period not to exceed 12 months. The utility shall, in the monthly filing in which Factor A is first amortized, include an amortization schedule showing the Adjustment Factor amount to be included in the base period. The associated carrying charge established by the Commission under 83 Ill. Adm. Code 280.70(e)(1) and in effect when the Adjustment Factor is first amortized shall be applied to each month's unamortized balance and included within Factor A.

Section 525.60 Determination of Gas Charge(s)

a) Each month the utility shall determine the Gas Charge(s) to be placed into effect for service rendered or billed during the effective month. The Gas Charge(s) shall be determined in accordance with the following formula:

$$GC = (G+A+O/T) \times 100$$

Where:

GC = The Gas Charge(s) in cents per therm rounded to the nearest 0.01¢; any fraction of 0.01¢ shall be dropped if less than 0.005¢ or, if 0.005¢ or more, shall be rounded up to the next full 0.01¢. A utility may establish separate Gas Charges for each type of gas cost.

G = The sum of the estimated recoverable gas costs associated with the base periods, as prescribed in Section 525.40. If separate Gas Charges are established, only costs related to the specific Gas Charge shall be included.

A = An amount representing the total adjustments to gas costs, as prescribed in Section 525.50. If a utility has elected to amortize the total adjustments to gas costs, Factor A shall include the amount applicable to the base period.

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O = An amount representing the additional over- or under-recovery for a reconciliation year ordered by the Commission to be refunded or collected, including interest charged at the rate established by the Commission under 83 Ill. Adm. Code 280.70(e)(1) from the end of the reconciliation year to the order date in the reconciliation proceeding. If the Commission determines it is necessary to amortize the additional over- or under-recovery, additional interest shall be charged in the same manner as that prescribed in Section 525.50(b).

T = The estimated applicable terms of gas associated with service to be rendered or billed during the base period.

Section 525.70 Annual Reconciliation

a) In conjunction with a docketed reconciliation proceeding, the utility shall file with the Commission an annual reconciliation statement, which shall be certified by the utility's independent public accountants and verified by an officer of the utility. This statement shall show the difference between the following:

1) the costs recoverable through the Gas Charge(s) during the reconciliation year, as adjusted by Factor A and Factor O; and
2) the revenues arising through the application of the Gas Charge(s) to applicable terms during the reconciliation year.

b) If, after hearing, the Commission finds that the utility has not shown all costs to be prudently incurred or has made errors in its reconciliation statement for such reconciliation year, the difference determined by the Commission shall be refunded or recovered, as appropriate, under the Ordered Reconciliation Factor (Factor O), along with any interest or other carrying charge authorized by the Commission.

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NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Uniform Purchased Gas Adjustment Clause (General Order 212)
- 2) Code Citation: 83 Ill. Adm. Code 525
- 3) Section Numbers: Adopted Action:
 525.10 Repealed
 525.20 Repealed
 525.30 Repealed
 525.40 Repealed
 525.50 Repealed
 525.60 Repealed
- 4) Statutory Authority: Implementing Section 9-220 and authorized by Section 10-101 of the Public Utilities Act (220 ILCS 5/9-220 and 10-101).
- 5) Effective Date of Rulemaking: November 1, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: October 3, 1995
- 9) Notice of Proposal Published in Illinois Register: October 21, 1995 at 18 Ill. Reg. 15484.
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? None required.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: With the adoption of new rules concerning the purchased gas adjustment clause elsewhere in this issue of the *Illinois Register*, it is appropriate to repeal the current rules.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Conrad Rubinkowski
Illinois Commerce Commission

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED REPEALER

527 East Capitol Avenue
P.O. Box 19280
Springfield, IL 62794-9280
(217) 785-8439

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1) Heading of the Part: Long-Term Care Partnership Insurance

2) Code Citation: 50 Ill. Adm. Code 2018

3) <u>Section Number:</u>	<u>Adopted Action:</u>
2018.60	Amended
2018.70	Amended
2018.80	Amended
2018.130	Amended

4) Statutory Authority: Implementing the Partnership for Long-Term Care Act [320 ILCS 35] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

5) Effective Date of Amendment: October 6, 1995

6) Does this amendment contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) Date filed in Agency's Principal Office: October 6, 1995

9) Notice of Proposal Published in Illinois Register: February 24, 1995, 19 Ill. Reg. 2203

10) Has JCAR issued a Statement of Objections to this amendment? No

11) Difference(s) between proposal and final version:

a) All source notes have been indented an additional 5 spaces pursuant to Part 100.330(a)(2) (1 Ill. Adm. Code 110.330).

b) Section 2018.70(c) on the last line, delete "(Ill. Rev. Stat. 1991, ch. 73, par. 963A-5)."

c) Section 2018.80(d) on the first line, delete "The insurer shall" and change "provide" to "Provide."

d) Section 2018.80(d)(1), change "The insurer shall provide written evidence" to "Certify by letter."

e) Section 2018.80(d)(1) on the tenth line, change "50 Ill. Adm. Code 2012" to "(50 Ill. Adm. Code 2012)."

f) Section 2018.80(d)(1) on the twenty-first line, underscore this sentence as requested by JCAR.

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g) Section 2018.80(d)(1) at the end of this subparagraph, add "Insurers and producers shall maintain evidence of completion of the hours of training required and shall provide proof of completion upon request," but over-strike language as requested by JCAR.

h) Section 2018.80(d)(2) on the second line delete "2018.80" and "above" and add "of this Section" following "(d)(1)".

i) Section 2018.80(h)(1)(B), indent all text following the colon an additional five spaces as requested by the Code Unit.

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of rulemaking: The Department amended this Part in response to comments we received from industry concerning the notice requirement. We are also clarifying the educational requirements found in Section 2018.80(d) for consistency with Part 2012.

16) Information and questions regarding this adopted amendment shall be directed to:

Linda Smith
Department of Insurance
320 West Washington
Springfield, IL 62767-0001
(217) 785-7350

The full text of the Adopted Amendment begins on the next page.

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TITLE 50: INSURANCE

CHAPTER 1: DEPARTMENT OF INSURANCE
SUBCHAPTER 2: ACCIDENT AND HEALTH INSURANCE

PART 2018

LONG-TERM CARE PARTNERSHIP INSURANCE

Section	Purpose
2018.10	Applicability and Scope
2018.20	Definitions
2018.30	Policy Definitions
2018.40	Policy Practices and Provisions
2018.50	Unintentional Lapse
2018.60	Required Disclosure Provisions
2018.70	Standards for Marketing
2018.80	Minimum Benefit Standards for Qualifying Policies and Certificates
2018.90	Right to Appeal
2018.100	Required Policy and Certificate Provisions
2018.110	Reporting Requirements
2018.120	Maintaining Auditing Information
2018.130	Reporting on Asset Protection
2018.140	Preparing a Service Summary
2018.150	Plan of Action
2018.160	Auditing and Correcting Deficiencies in Insurer Recordkeeping
2018.170	Loss Ratio
2018.180	Appropriateness of Recommended Purchase
2018.190	Prohibition Against Pre-Existing Conditions and Probationary Periods in Replacement Policies or Certificates
2018.200	Standard Format Outline of Coverage Requirements
2018.210	Requirement to Deliver Shopper's Guide
2018.220	Penalties
2018.230	Class of Insurance - Accident/Health
EXHIBIT A	Standard Format - Outline of Coverage
EXHIBIT B	

AUTHORITY: Implementing the Partnership for Long-Term Care Act [320 ILCS 35] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Adopted at 18 Ill. Reg 12746, effective August 9, 1994; amended at 19 Ill. Reg. 14809, effective 00101995.

Section 2018.60 Unintentional Lapse

Each insurer offering long-term care partnership insurance shall, as a protection against unintentional lapse, comply with the following:

- Notice before lapse or termination.
 - No individual long-term care partnership policy or certificate

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shall be issued until the insurer has received from the applicant a written designation of at least one person, in addition to the applicant, who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium, or a written waiver dated and signed by the applicant electing not to designate additional persons to receive notice. The applicant has the right to designate at least one person who is to receive the notice of termination, in addition to the insured. Designation shall not constitute acceptance of any liability on the third party for services provided to the insured. The form used for the written designation shall provide space designated for listing at least one person. The designation shall include each person's full name and home address. In the case of an applicant who elects not to designate an additional person, the waiver shall state: "Protection against unintended lapse. I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until 90 at least ten (10) days after a premium is due and unpaid. I elect NOT to designate any person to receive such notice." The insurer shall also notify the insured of the right to designate or change the designee, no less often than once every 2 years.

2) When the policyholder or certificateholder pays the premium for a long-term care partnership policy or certificate through a payroll or pension deduction plan, the requirements contained in subsection (a)(1) of this Section need not be met until sixty (60) days after the policyholder or certificateholder is no longer on such a payment plan. The application or enrollment form for such policies or certificates shall indicate the payment plan selected by the applicant.

3) Lapse or termination for nonpayment of premium. No individual long-term care partnership policy or certificate shall lapse or be terminated for nonpayment of premium unless the insurer, at least thirty (30) days before the effective date of the lapse or termination not less than ten (10) days following the premium due date, has given notice to the insured and to those persons designated pursuant to subsection (a)(1) of this Section, at the address provided by the insured for purposes of receiving notice of lapse or termination. Notice shall be given by first class United States mail, postage prepaid and notice shall not be given until thirty (30) days after a premium is due and unpaid. Notice shall be deemed to have been given as of five (5) days after the date of mailing.

b) In addition to the requirements of subsection (a) above, a long-term care partnership policy or certificate shall include a provision which provides for reinstatement of coverage, in the event of lapse, if

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the insurer is provided proof of cognitive impairment as defined in Section 2018.30(m) of this Part and as determined by a physician. This option shall be available to the insured for no less than (5) months after termination and shall allow for the collection of past due premium.

(Source: Amended at 19 Ill. Reg. 14809, effective OCT 05 1995)

Section 2018.70 Required Disclosure Provisions

a) Renewability. Individual long-term care partnership policies shall contain a renewability provision. Such provision shall be captioned as a Renewal, shall appear on the first page of the policy, and shall clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and of which it may be renewed.

b) Riders and Endorsements. Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care partnership policy, all riders or endorsements added to an individual long-term care insurance policy after issuance or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the individual insured. After issuance, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to in writing and signed by the insured, with the exception of when the increased benefits or coverage are required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy, rider or endorsement.

c) Pre-existing Conditions. If a long-term care partnership policy or certificate contains any limitations with respect to pre-existing conditions, such limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled "Pre-existing Condition Limitations." Limitations to pre-existing conditions shall be in accordance with Section 351A-5 of the Illinois Insurance Code (215 ILCS 5/351A-5).

d) Disclosure Requirements for Accelerated Life Products.

1) Policy Summary

At the time of policy delivery, a policy summary shall be delivered for an individual life insurance policy which provides long-term care partnership benefits within the policy or by rider. In the case of direct response solicitations, the insurer shall deliver the policy summary upon the applicant's request, but regardless of request shall make such delivery no later than at the time of policy delivery. In addition to complying with all applicable requirements, the summary shall

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also include:

- A) an explanation of how the long-term care partnership benefit interacts with other components of the policy, including deductions from death benefits;
- B) an illustration of the amount of benefits, the length of benefit, and the guaranteed lifetime benefits, if any, for each covered person;
- C) any exclusions, reductions and limitations on long-term care partnership benefits; and
- D) if applicable to the policy type, the summary shall also include:
 - i) disclosure of the effects of exercising other rights under the policy;
 - ii) disclosure of guarantees related to long-term care partnership benefit costs of insurance charges; and
 - iii) current and projected maximum lifetime benefits.
- 2) Benefit Reports

Any time a long-term care partnership benefit funded through a life insurance vehicle by the acceleration of the death benefit is in benefit payment status, a monthly report shall be provided to the policyholder. Such report shall include:

 - A) any long-term care partnership benefits paid during the month;
 - B) an explanation of any changes in the policy, including changes in death benefits or cash values, due to long-term care partnership benefits being paid out; and
 - C) the amount of long-term care partnership benefits existing or remaining.
- 3) Outline of Coverage

The Outline of Coverage should include an example filled out in John Doe form which illustrates how the long-term care partnership policy benefits are calculated. Refer to Section 2012.110 and Exhibit E B for format and content requirements.

 - e) An applicant and/or policyholder shall be given a copy of an explanation of the Right to Appeal found in Section 2018.100 of this Part, during the initial visit with an insurance producer, or upon request.

(Source: Amended 19 Ill. Reg. **14809**, effective **OCT 06 1995**)

Section 2018.80 Standards for Marketing

No long-term care partnership policy or certificate shall be advertised, solicited, or issued for delivery in this State as a long-term care partnership policy or certificate unless it has been approved by the Director. Each insurer seeking approval of a long-term care partnership policy or certificate shall:

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- a) Provide the DOI with a written summary of the methods the insurer will use to alert the consumer, prior to presentation of an application for long-term care partnership insurance, of the availability of consumer information and public education provided by the Senior Health Insurance Program (SHIP) of the DOI.
- b) Utilize applications to be signed by the applicant which indicate that the applicant:
 - 1) Received a complete description of the Illinois long-term care partnership program entitled "What You Should Know About The Long-Term Care Partnership" available from any of the participating agencies, which includes an explanation of asset protection and how it is achieved. In addition to these, an address and a toll free consumer information telephone number for SHIP shall be provided, as 1-800-548-9034, located at Department of Insurance, 320 W. Washington, 4th Floor, Springfield, Illinois 62767.
 - 2) Received a description of the insurer's long-term care partnership policy or certificate benefit option.
 - 3) Agrees to the release of information by the insurer to the State as may be needed to evaluate the Illinois long-term care partnership program, and document a claim for Medicaid asset protection in the following format:

"CONSENT AND AUTHORIZATION
TO RELEASE INFORMATION"

I hereby agree to the release of all records and information pertaining to this long-term care partnership policy or certificate by the [insert issuer name] to the State of Illinois for the purpose of documenting a claim for Asset Protection under the State Medicaid program, for evaluating the Illinois Long-Term Care Partnership Program, and for meeting Medicaid or Department of Insurance audit requirements.

I understand that the information contained in these records will be used for no purpose other than those stated above, and will be kept strictly confidential by the State of Illinois.

(Signature of Applicant(s)."

- 4) Received a description regarding mandatory inflation protection that shall be in the following format:

"NOTICE TO APPLICANT REGARDING
MANDATORY INFLATION PROTECTION"

All Long-Term Care Partnership policies provide for automatic increases in daily coverage benefits of at least

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5% per year compounded. Companies may offer greater inflation protection. Depending on the option you choose to automatically inflate daily coverage benefits, premiums may rise over the life of the policy (certificate). [Insert insurer name] will provide you with a graphic comparison showing the differences between a policy inflating at 5% and a policy inflating at a greater percentage, over at least a twenty (20) year period."

c) Report to the DOI all sales involving replacement of existing policies and certificates by long-term care partnership policies or certificates quarterly to include:

- 1) The name and address of the insured.
- 2) The name of the company whose policy or certificate is being replaced.
- 3) The name of the producer replacing the coverage.
- 4) A comparison of the coverage issued with that being replaced, including a comparison of premiums and an explanation of how the replacement was beneficial to the insured. The replacing insurer shall not cancel, renew, or rescind a replacement long-term care partnership policy or certificate for any reason other than nonpayment of premium, material misrepresentation, or fraud.

d) Provide producer training as follows:

- 1) Certify by letter provide written evidence to the DOI Department of Insurance that procedures are in place to assure that no producer will be authorized to market, sell, solicit, or otherwise contact any person for the purpose of marketing a long-term care partnership policy or certificate unless the producer has completed six (6) hours of training on traditional long-term care insurance, in--generally specifically titled "Traditional Long-Term Care Insurance Policy", as prescribed in Exhibit E (50 Ill. Adm. Code 2012) and complete an additional six (6) hours of training on the Illinois long-term care program Partnership Insurance as specifically titled "Long-Term Care Partnership Policy" as prescribed in Exhibit B-450-III--Adm. Code--31194 A of this part. This course cannot be included as a part of any other certified continuing education course; however these courses may satisfy a part of the continuing education requirements of Section 494.1(c) of the Illinois Insurance Code [215 ILCS 5/494.1(c)]. Insurers and producers shall maintain evidence of completion of the hours of training required and shall provide proof of completion upon request. Such assurances proofs of completion shall be in the form format of--a--property-----completed--document,--Exhibit--B prescribed by 450 Ill. Adm. Code 31194, Exhibit D, and shall be signed by the producer and the authorized--signature--for the provider. Provider of the education attesting to the successful

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completion of the required training and and-submitted-to-the-DOI. The course of study content requirements appearing in Exhibit A shall be satisfied. Insurers--and--producers--shall--maintain evidence-of-completion-of-the--hours--of--training--required--and--shall--provide--proof-of-completion-upon-request.

- 2) The required training hours shall referenced in subsection (d)(1) of this Section may qualify as part of the continuing education requirements of Section 494.1(c) of the Illinois Insurance Code [215 ILCS 5/494.1(c)] only if the training course has been certified under 50 Ill. Adm. Code 3119.30(4). Each educational provider shall submit its request for certification to the Director on a form prescribed by Exhibit-B-450 Ill. Adm. Code 3119.30(4)Exhibit B at least 30 days prior to any course being offered. All educational providers providers and training courses qualifying for continuing education credit shall be renewed on an annual basis.

e) Include a statement on the outline of coverage, the policy or certificate application, and the front page of the long-term care partnership policy or certificate in bold type and in a separate box as follows: "THIS POLICY [CERTIFICATE] IS APPROVED UNDER THE ILLINOIS LONG-TERM CARE PARTNERSHIP INSURANCE PROGRAM."

f) Long-term care insurance policies or certificates sold after July 1, 1994, that are not under the Illinois long-term care partnership program must include a statement on the outline of coverage, the policy or certificate application, and the front page of the policy or certificate in bold type and in a separate box as follows: "THIS POLICY [CERTIFICATE] IS NOT APPROVED FOR MEDICAID ASSET PROTECTION UNDER THE ILLINOIS LONG-TERM CARE PARTNERSHIP PROGRAM. HOWEVER, THIS POLICY [CERTIFICATE] IS AN APPROVED LONG-TERM CARE POLICY [CERTIFICATE] UNDER STATE INSURANCE REGULATIONS. FOR INFORMATION ABOUT POLICIES AND CERTIFICATES APPROVED UNDER THE ILLINOIS LONG-TERM CARE PARTNERSHIP PROGRAM, CALL THE SENIOR HELPLINE AT THE DEPARTMENT ON AGING AT 1-800-252-8966."

g) Provide that no long-term care partnership policy or certificate shall be sold, transferred, or otherwise ceded to another insurer without first having obtained approval from the Director.

h) Except as provided below, an insurer shall continue to make available for purchase any policy or certificate issued that has been approved by the Director. The following describes the process and result of discontinuing the availability of a policy or certificate:

- 1) An insurer may discontinue the availability of a policy or certificate if the insurer provides the Director, in writing, its decision at least thirty (30) days prior to discontinuing the availability of the policy or certificate. The following shall be considered a discontinuance of the availability of a policy or certificate:
 - A) The sale or other transfer of a policy or certificate to another insurer.

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B) A change in the rating structure or methodology unless the insurer complies with the following requirements:

The insurer shall provide an actuarial memorandum which contains a complete description of the current rating methodology including all assumptions underlying the current rates, and a complete description of the revised rating methodology including all assumptions underlying the rates proposed under the revised rating methodology, and actuarial justification, i.e., experience studies, general population data, etc., for each of the assumptions that are different than the corresponding assumptions underlying the current rates, and a demonstration of actuarial relationship between the current and proposed rates using the distribution of current insureds, and an identification of the rating cells, i.e., age, sex, etc., which experience the greatest change in rates due to the change in rating methodology, and a demonstration that the rates based on the new rating methodology meet the loss ratio requirements of this Part and any other relevant information. The actuarial memorandum should identify the actuary responsible for establishing the change in rating methodology and be signed by the actuary.

2) An insurer that discontinues the availability of a policy or certificate under subsection (1) above shall not file for approval of a new long-term care partnership policy or certificate for a period of five (5) years after the insurer provides notice to the Director of the discontinuance.

(Source: Amended 1995 19 Ill. Reg. 14809, effective October 1995)

Section 2018.130 Maintaining Auditing Information

a) Every insurer shall maintain information as required by subsection (f) below, on all long-term care partnership policyholders or certificateholders who have ever received any benefit under the policy or certificate. Such information shall be updated at least quarterly. This requirement for updating shall not require the conduct of any assessment, reassessment, or other evaluation of the long-term care partnership policyholder's or certificateholder's condition which is not otherwise required.

b) When a long-term care partnership policyholder or certificateholder who has received any benefit dies or lapses a long-term care partnership policy or certificate for any reason, the insurer shall retain the required information for a period of at least five (5)

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years after the time when the policy was in force. Unless notified by the DOI to the contrary during this period, after the expiration of five (5) years, the service summary provided by the insurer will be deemed to comply with all asset protection reporting, record keeping, and auditing requirements of this Part. The insurer may use microfiche, microfilm, optical storage media, or any other cost effective method of record storage as alternatives to storage of paper copies.

c) At the time the long-term care partnership policy or certificate ceases to be in force, the insurer shall notify the policyholder or certificateholder of the right to request a copy of the service records as required by subsection (f) below.

d) The insurer shall also, upon request in writing, provide such policyholder or certificateholder or the policyholder's or certificateholder's authorized designee, if any, with a copy of the insurer's service records as required by subsection (f) below which are necessary to establish the asset disregard. These records shall be provided within sixty (60) days after a request.

e) The insurer shall enclose with the records a statement advising former long-term care partnership policyholders or certificateholders that it is in their best interest to retain the records if they ever wish to establish eligibility for Medicaid.

f) The information to be maintained includes the following:

1) Evidence that the insured event has taken place. The occurrence of the insured event shall be documented by case management agency staff, as part of the initial assessment of the client or as part of a subsequent reassessment.

2) Description of services provided under the long-term care partnership policy or certificate, including the following:

A) Name, address, phone number, and professional license number, if applicable, of provider.

B) Amount, date, and type of services provided, and whether the services qualify for asset protection.

C) Dollar amounts paid by the insurer--~~whether-on~~--an ~~indemnity--expense-incurred-or-other-basis~~.

D) The charges of the service providers, including copies of all invoices for services counting toward asset protection.

E) Identification of the case management agency, if applicable, and copies of all assessments and reassessments.

F) Determination of whether the long-term care partnership policyholder or certificateholder was a qualified insured at the time of benefit payment. The insurer may rely on written representation by the long-term care partnership policyholder or certificateholder as to whether he or she has had the required coverages defined in this Part.

3) In order for home and community based services to qualify for asset protection, these services shall be in accord with a plan

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of Care developed by a case management agency. If the long-term care partnership policyholder or certificateholder has received any benefits delivered as part of a Plan of Care, the insurer shall retain the following:

- A) A copy of the original Plan of Care and the Determination of Need.
- B) A copy of the Plan of Care required by DoA or DORS.
- C) A copy of any changes made in the Plan of Care. The Plan of Care shall document that the changes are required by changes in the client's medical situation, cognitive abilities, or the availability of social supports. Such services shall count towards asset protection after the case management agency adds the documented need for and description of the new services to the Plan of Care.

(Source: Amended at 19 Ill. Reg. 14809, effective OCT 06 1995)

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- 1) Heading of the Part: Confidentiality of Information
- 2) Code Citation: 89 Ill. Adm. Code 505
- 3) Section Numbers:

505.05	<u>Adopted Action:</u>
505.10	Amendment
505.40	Amendment
505.50	Amendment
505.60	Amendment
505.70	Amendment
505.80	Amendment
- 4) Statutory Authority: Implementing Sections 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and Social Security Regulations (20 CFR 401 (1992)) and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].
- 5) Effective Date of Rulemaking: October 5, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: October 5, 1995
- 9) Notice of Proposal Published in Illinois Register: April 21, 1995, 19 Ill. Reg. 5940
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version:

First Notice changes recommended by JCAR and Admin. Code were minor technicals and were made. Second Notice changes by JCAR were technicals with the exceptions:

In line 383, added a citation to the Auditor Generals Office by inserting "[301 ILCS 5]" after Office.

In line 385, the citation "[301 ILCS 5]" was stricken.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No

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15) Summary and Purpose of Rulemaking: Substantive changes are being proposed to Section 505.50 to clarify that DORS will further release customer information for the benefit of a customer which it receives from other sources unless specifically prohibited to do such.

16) Information and questions regarding these adopted rules shall be directed to:

Name: Ms. Susan Warrner, Manager
Address: Regulations and Procedures Division
Department of Rehabilitation Services
P.O. Box 19429
Springfield, Illinois 62794-9429
Telephone: (217) 785-3896
TTY: (217) 785-9301

The full text of the Adopted Rule begins on the next page:

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF ADOPTED RULES

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 505

CONFIDENTIALITY OF INFORMATION

Section	Definitions
505.5	General
505.10	Definitions (Renumbered)
505.20	Ownership of Records
505.30	Release of Confidential Information without the Consent of the Customer <u>Client</u>
505.40	Release of Confidential Information with the Consent of the Customer <u>Client</u>
505.50	Procedures
505.60	Subpoenas
505.70	Additional Rules
505.80	

AUTHORITY: Implementing Sections 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and Social Security Regulations (20 CFR 401 (1992)) and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].

SOURCE: Adopted at 7 Ill. Reg. 5247, effective April 1, 1983; amended at 8 Ill. Reg. 15493, effective August 15, 1984; amended at 9 Ill. Reg. 16971, effective October 16, 1985; amended at 11 Ill. Reg. 9952, effective May 8, 1987; amended at 15 Ill. Reg. 7728, effective May 7, 1991; amended ~~148~~ 148 Ill. Reg. 9964, effective June 22, 1993; amended at 19 Ill. Reg. 020.5.1995.

Section 505.5 Definitions

Customer Client -- Means a person who is receiving, has received, or has applied for any DORS services, including a student at a DORS school, or the person empowered by law to act on behalf of the customer client.

Confidential Information -- Means all closed, active and future records and conversations (including Teletypewriter/ Telecommunication Devices for the Deaf (TTY/TDD) between the customer client and counselor kept by DORS, concerning the customer's client's program of services. Printouts from TTY/TDD conversations must be destroyed upon completion and documentation of the call.

DORS -- Means the Illinois Department of Rehabilitation Services.

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Employee -- Means any person employed by DORS to participate in the delivery of DORS' programs. As used in this Part, the term shall also include supervisory level personnel and others in management positions.

Guardian -- Means the person appointed by a court as the guardian of the person of a minor or of an adult.

Parent -- Means either a natural or adoptive parent, except those whose parental rights have been terminated voluntarily or by order of a court, or otherwise restricted by order of a court.

Representative -- Means the person that the customer client by Power of Attorney, or otherwise in writing, has authorized to act on the customer's client's behalf.

Services -- Means the assistance and support available under DORS' program to a customer client.

(Source: Amended at 19 Ill. Reg. 14821, effective OCT 05 1995)

Section 505.10 General

- a) DORS through its facilities and various offices, shall maintain records on all customers clients. All records shall be of a confidential nature and shall not be made available to the general public.
- b) Except as required or allowed in this Part, no confidential information obtained concerning customers clients may be disclosed without the consent of that individual. If the information concerns a minor, the consent of a parent or a guardian must also be obtained. After a person has reached the age of 18 years, the records of that individual may be disclosed only with the consent of that individual, or, if one has been appointed, the guardian of the person of an adult.
- c) Except as provided in this Part, each customer client who has reached 12 years of age, a parent of a minor customer client, or a guardian or duly authorized representative of a customer client shall have full access to the confidential information contained in the customer's client's record.
- d) All customers clients, representatives, service providers, cooperating agencies, and interested persons shall be informed of the confidentiality of personal information and the conditions for accessing and releasing this information.
- e) All customers clients and their representatives must be informed about DORS' need to collect personal information and the policies governing its use. DORS shall inform customers clients of the following:
 - 1) the authority under which information is collected;

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- 2) the principal purposes for which DORS intends to use or release the information;
- 3) whether the customer's client's provision of the information is mandatory or voluntary and the effects of not providing requested information to DORS;
- 4) those situations where DORS requires or does not require informed written consent of the customer client before information may be released; and
- 5) other agencies to which information is routinely released and the types of information so released.
- f) All explanations to customers clients and their representatives about State state policies and procedures affecting confidential information must be in the customer's client's primary language and must be through appropriate modes of communication for those individuals who rely on special modes of communication, including Braille.
- g) Any person entitled to access customer client files (as set forth in Section 505.50 of this Part) may inspect those files and request modification of any part of the record which he or she believes is misleading. If such a request is refused, the customer client is entitled to submit a written rebuttal to such records and submit the rebuttal for incorporation as a permanent part of the record. Whenever the disputed part of the record is disclosed, the rebuttal shall accompany the disclosed part.
- h) Information in case records received from, or developed for, the Social Security Administration (SSA) shall be controlled by its regulations governing confidentiality (20 CFR 401 (1992)). Such information in the records of DORS' Bureau of Disability Determination Services shall be available to the other sections of DORS in connection with the delivery of services to a customer client. However, should such information be sought by a customer client, the inquiry shall be directed to the originating source of the information or the SSA. However, by federal law, a Member of Congress has a right to receive this information upon request.
- i) This Part shall not apply to the educational records maintained by any of DORS' facilities. Such records are subject to the Illinois School Student Records Act (Ill.-Rev.-Stat.-1991-ch-122-par-50-1-et-seq-) [105 ILCS 107-1-et-seq-] and any regulations thereunder. Other DORS records received and maintained by the facilities operated by DORS shall not be commingled with the educational records and shall be governed by this Part.

(Source: Amended 19 Ill. Reg. 14821, effective OCT 05 1995)

Section 505.40 Release of Confidential Information without the Consent of the Customer Client

- a) An employee may, in the course of providing services, disclose

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confidential information without the consent of the customer client to other DORS employees (e.g., counselor's supervisor, Legal Counsel, Hearings Coordinator), with the exception cited in Section 505.80(b) and (c). However, information in a vocational rehabilitation file may be shared only if it is for the administration of the VR program. Information in a VR file may be released to HSP, DDS and other non-VR divisions only if the customer client whose information is to be released consents.

b) Pursuant to DORS' obligations under federal and State state law and regulations to utilize both similar benefits and alternative programs for which a customer client may be eligible, the employee may disclose to agencies having such programs or benefits personal identifying information obtained during the intake process without the consent of the customer client. However, only such personal identifying information as is essential to the referral shall be disclosed. The remainder of the information shall only be released to another agency after written consent from the customer client is obtained.

c) Only the Director shall authorize the release of confidential information to an organization, agency, or individual engaged in audit, evaluation, research, or employee disciplinary actions and only for purposes directly connected with the administration of the program or for purposes which would significantly improve the quality of life for persons with disabilities. The organization, agency, or individual shall assure that:

- 1) the information shall be used only for the purposes for which it is being provided;
- 2) the information shall be released only to persons officially connected with the audit, evaluation or research, or employee disciplinary action;
- 3) the information shall not be released to the customer client;
- 4) the information shall be managed in a manner to safeguard confidentiality; and
- 5) the final product shall not reveal any personal identifying information without the informed written consent of the customer client.

d) Organizations and individuals not directly involved in the DORS delivery of services shall not have access to confidential information. However, if such organizations or individuals request information from DORS which would be used in the development and planning of their own programs, then the Director may, in his/her discretion, conduct such studies and surveys on their behalf as they request and release the results to them deleting any personal identifying information regarding any customer clients. In determining whether to conduct such studies or surveys, the Director will consider such factors as the time demand on staff in developing responses, any past experience DORS has in working with the organization or individual, and the specific relationship of the study or survey questions to the program being planned. All other aspects

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of the studies or surveys shall be as agreed between parties. DORS may share confidential information on a need-to-know basis with its trainees, interns, counselor aides, and volunteers, who shall be bound by DORS rules concerning confidentiality in the same manner as employees.

e) Confidential information may also be released without consent in the following situations:

- 1) in order to protect the customer client or others when the customer client poses a threat to his/her safety or to the safety of others;
- 2) if required by federal law;
- 3) in response to investigations in connection with law enforcement, fraud or abuse; or
- 4) in response to judicial order, including a subpoena.

f) Information shall be released without consent to the Department of Children and Family Services as detailed below:

- 1) Confidential information shall be released without consent to the Department of Children and Family Services if the employee has reasonable cause to believe a child is or has been neglected or abused, in accordance with the Abused and Neglected Child Reporting Act (111-Rev-Stat-1997-CH-237-PARS-2051-ET-SEQ-7 [325 ILCS 57-ET-SEQ-7]). "Reasonable cause" means that the available facts when viewed in light of surrounding circumstances would cause a reasonable person to believe that a child was abused or neglected.

- 2) For any report made to DORS concerning abused or neglected children, the DORS employee taking the report shall immediately make a verbal report, followed by a written report within 48 hours, regarding any and all information to the Department of Children and Family Services (DCFS) and shall make whatever follow-up reports are required by DCFS.

(Source: Amended at 19 Ill. Reg. 14821, effective OCT 05 1995)

Section 505.50 Release of Confidential Information with the Consent of the Customer Client

The customer client, parent of a minor customer client, guardian or representative may request and consent in writing to the release of confidential information to the customer client, parent of a minor customer client, guardian or representative, or other individual, agency or organization. The following rules shall apply to all such releases:

- a) When such a request for release of confidential information to the customer client, parent of a minor customer client, guardian or representative is received, all confidential information contained in the customer's client's file may be inspected and copied with the exceptions as noted below:

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- date and the reason such reading or disclosure was permitted.
- c) No confidential information shall be released over the telephone to persons outside DORS without the written consent of the customer or in situations authorized under this Section when no consent is required. In all telephone contacts, including DORS employees, involving the confidential information, a notation shall be made in the CASE FOLDER MEMORANDUM of the release.
- d) The original file may not be removed from the control of DORS, except in compliance with a subpoena or in the discretion of the Director, but may be viewed in the office in compliance with this Section. All other releases requesting or requiring copies shall be provided through photocopies. Except for customers' clients, DORS may charge its actual cost for such copies.

(Source: Amended OCT 03 1995 at 19 Ill. Reg. 14821, effective OCT 03 1995)

Section 505.70 Subpoenas

- a) When a subpoena for the production of records is received by DORS, the employee receiving it shall release such information in accordance with the requirements and procedures of this Part, and with the terms of the subpoena. A written notice shall accompany the records identifying the removed material and directing the person issuing the subpoena for records to the proper source for release of Section 505.50(a)(1) records or to the customer client for consent for Section 505.80(a) records.

- b) Information which is governed by the following Sections shall be removed before releasing the file, if the release is other than in court:

- 1) Section 505.50(a) which a providing individual, agency or organization refuses to allow DORS to release; or
- 2) Section 505.10(h).

- c) If an employee receives a subpoena to testify in court or in an administrative hearing, the employee shall immediately contact DORS Legal Division to discuss the subpoena. If the subpoena requires a court appearance, the information shall be segregated in the file and the employee shall follow the order of the court after drawing the court's attention to the federal laws and regulations appertaining thereto.

(Source: Amended at 19 Ill. Reg. 14821, effective OCT 03 1995)

Section 505.80 Additional Rules

- a) The release by DORS of any clinical, social work, psychological, psychiatric or other information of a mental health or developmental

- 1) Information which has been obtained from another individual, agency or organization and which that unless-it-is-a-report-of-an-examination-purchased-by-DORS-may-be-released-only-by-the-providing individual, agency or organization has specifically prohibited DORS from further releasing. or--under--conditions established-by--it- In such instances, the customer the-client shall be informed of the source of such information in order to access it directly from the originator, --should--DORS-net-be permitted-to-release-it-

- 2) Any medical or psychological information not precluded from release by subsection (a)(1) which would be harmful to the customer client, as determined by the counselor, shall be released only to the customer's client's parent, guardian, or representative, or to a physician or licensed or certified psychologist. When releasing such information, DORS shall caution the receiver of the information that it may be harmful to the customer client and that, therefore, the receiver is responsible for the use of the information.

- b) When the customer client, parent of a minor customer client, guardian or representative requests release to another individual, agency or organization, DORS, upon receiving the informed written consent, shall release to such other individual, agency or organization for its program purposes only that information which may be released to the customer client, parent of a minor customer client, guardian or representative, and only to the extent that the other individual, agency or organization demonstrates that the information requested is necessary for its program. Information which is determined would be harmful to the customer client shall be released only when the other agency or organization assures DORS that the information will be used only for the purpose for which it is being provided and will not be further released to the customer client.

(Source: Amended OCT 03 1995 at 19 Ill. Reg. 14821, effective OCT 03 1995)

Section 505.60 Procedures

- a) When confidential information is released, the DORS employee releasing it shall place a note on the CASE FOLDER MEMORANDUM stating the name of the person to whom it was given, the date, and the reason for such release. Additionally, the receiver shall be sent a notation from the releasing employee that the information is confidential and may be used only for the purposes for which it is released, and may not be further distributed without the written consent of both DORS and the customer client.

- b) If a person outside DORS properly authorized under this Section merely reads the confidential file, a notation shall be placed in the file stating his or her name, the name of the agency or organization, the

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disability services nature, including, but not limited to, examination, diagnosis, evaluation, treatment, training, pharmaceuticals, aftercare, habilitation or rehabilitation, shall be governed by the Mental Health and Development of Disabilities Confidentiality Act (411--Rev--Stat--1997--ch--91--1/27--par--801--et seq--7) [740 ILCS 110/4] unless requirements of the federal regulations (34 CFR 361.49) are more stringent.

b) AIDS, ARC, HIV Information.

No person or employee shall disclose or be compelled to disclose the identity of a customer client or of a DORS' student who has been exposed to the human immunodeficiency virus (HIV), the identity of the person upon whom a HIV test is performed or the results of such a test without the written informed consent of the customer client or student, or legally authorized representative, except as permitted by the Illinois AIDS Confidentiality Act (411--Rev--Stat--1997--ch--111--1/27--par--7981--et seq--7) [410 ILCS 305/4].

c) AIDS Information as it Relates to DORS' Schools

1) A DORS school principal shall only disclose the identity of an HIV infected student:

A) if notified by a public health authority (e.g., Illinois Department of Public Health, county or city health department) that the student has been exposed to the HIV infection;

B) if in the principal's judgement it is necessary per the Communicable Disease Prevention Act (411--Rev--Stat--1997--ch--111--1/27--par--2212a--7) [410 ILCS 315/2a]; and

C) if approval to share the information has been obtained through the chain of command to the Associate Deputy Director of the Bureau of Rehabilitation Services, but identifying information may not be disclosed to obtain approval.

2) If these conditions are met, the principal shall inform the following:

A) the superintendent of the DORS' school;

B) the school nurse;

C) other persons as shall be necessary in the principal's opinion (e.g., dorm parent, wrestling coach, teachers in whose classes the student is enrolled), as long as the student's identity is not revealed; and

D) those persons who are required to decide the student's placement or educational program, but only if there is a need to know such information in order to provide the student with medical services, e.g., when a student must take medication during school attendance or when the student's clinical condition necessitates other medical services.

d) Media Requests. No confidential information requested by the media concerning a customer client shall be released, unless the written

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consent of the customer client, guardian or representative is first obtained.

e) Legislative Requests. Release of Information to State Legislators or Legislative Bodies

1) Only the Director or customer client, guardian or representative can authorize the release of customer client information to the Illinois legislature, committees, commissions or employees thereof; except if:

A) access is authorized by the legislature by resolution or otherwise; or

B) a member of a committee or commission needs such information to advance legislation pending before such committee.

2) Legislators may receive a general status report, not containing confidential information upon request.

3) Auditors with specific legislative authority shall be given access to any and all records necessary for such audit. The auditors shall be prohibited by this Part from any further dissemination of confidential information beyond the scope of the audit, and shall similarly be bound by a statute governing the operation of the Auditor General's Office [301 ILCS 5], and regulations promulgated pursuant thereto (411--Rev--Stat--1997--ch--157--par--301--1--et seq--7) [310 ILCS 5/1-1--et seq--7] (Auditor General Regulation 3:3 11A(1), "Maintenance of Information").

f) All reports made to DORS pursuant to the Domestic Abuse of Disabled Adults Intervention Act (Act) (411--Rev--Stat--1997--ch--237--par--3995--1--et seq--7) [201 ILCS 2435/4--et seq--7] shall be confidential and may not be released except as follows:

1) To DORS employees for the purpose of the Act;

2) To law enforcement agencies investigating suspected abuse, neglect or exploitation;

3) To the adult disabled person who is the subject of the report;

4) To a court for an in camera inspection but only pursuant to a finding that access is necessary;

5) To a grand jury if it finds that access is necessary for an issue pending before it;

6) To any person authorized by the DORS Director for audit or research purposes;

7) To a coroner or medical examiner; or

8) To the agency designated pursuant to the Protection and Advocacy for Developmentally Disabled Persons Act (411--Rev--Stat--1997--ch--91--1/27--par--1151--et seq--7) [405 ILCS 40/1-1--et seq--7] and the Protection and Advocacy for Mentally Ill Act (411--Rev--Stat--1997--ch--91--1/27--par--1151--et seq--7) [405 ILCS 45/1-1--et seq--7].

In addition, the identity of the reporter must be kept confidential unless express written consent is received from him/her to release his/her name.

(Source: Amended at 19 Ill. Reg. 14821 effective

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OCT 05 1995

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Medical Payments2) Code Citation: 89 Ill. Adm. Code 1403) Section Numbers: Emergency Action:

140.2, 140.40, 140.413	Amendment
140.460, 140.461	Amendment
140.462, 140.463	Amendment
140.464	Repeal
140.485, 140.920, 140.922	Amendment
140.924	Amendment
140.926, 140.928	Repeal
140.930	Amendment
140.932	Repeal
140.TABLE M	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]5) Effective Date of Amendments: October 6, 19956) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable7) Date Filed in Agency's Principal Office: October 6, 1995

8) Reason for Emergency: These emergency amendments are required to implement the Maternal and Child Health Program, which is replacing the Department's Healthy Moms/Healthy Kids Program (HM/HK). The HM/HK Program, which ensures access to essential medical services for pregnant women and children, has provided for the enrollment of clients with a specific medical provider through a federal waiver which has expired. The Department's intent had been to continue this managed care approach for HM/HK services under the managed care program to be known as MediPlan Plus. However, federal approval for MediPlan Plus has been delayed. Therefore, extensive changes in the HM/HK Program must now be made to ensure that access to necessary health care is continued for pregnant women and children.

9) Complete Description of the Subjects and Issues Involved: These emergency amendments are required to implement the Maternal and Child Health Program, which is replacing the Department's Healthy Moms/Healthy Kids Program (HM/HK). The HM/HK Program, which ensures access to essential medical services for pregnant women and children, has provided for the enrollment of clients with a specific medical provider through a federal waiver which has now expired. The Department's intent had been to continue this managed care approach for HM/HK services under the managed

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care program to be known as MediPlan Plus. However, federal approval for MediPlan Plus has been delayed. Therefore, extensive changes in the HM/HK Program are now being made to ensure that access to necessary health care is continued for pregnant women and children.

Medical services under the Maternal and Child Health Program will be provided through a case management component for pregnant women and children under 12 months of age and wards of the Department of Children and Family Services who are age five years or under. Providers in the Program may include physicians, Federally Qualified Health Centers, hospital clinics and encounter rate clinics that meet qualifications as described in the amendments. The Program is designed to encourage provider participation through rate incentives, including increased payment rates for selected services and expedited payments.

It is anticipated that these emergency amendments will result in an approximate savings in fiscal year 1996 of \$5.7 million. This savings is expected to occur because of a decrease in the age of children who are eligible for care in the Maternal and Child Health Program and because of the elimination of maintenance payments under the HM/HK Program of \$5 per child per month.

10) Are there any Proposed Amendments pending to this Part? Yes

Sections	Proposed Action	Illinois Register Citation
140.3	Amendment	June 23, 1995 (19 Ill. Reg. 8066)
140.5	Amendment	June 23, 1995 (19 Ill. Reg. 8066)
140.7	Amendment	August 25, 1995 (19 Ill. Reg. 12210)
140.9	Amendment	August 25, 1995 (19 Ill. Reg. 12210)
140.16	Amendment	September 15, 1995 (19 Ill. Reg. 12937)
140.80	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.82	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.84	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.440	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.443	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.444	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.445	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.446	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.447	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.500	Amendment	July 14, 1995 (19 Ill. Reg. 9386)
140.504	Amendment	July 14, 1995 (19 Ill. Reg. 9386)
140.505	Repeal	July 14, 1995 (19 Ill. Reg. 9386)
140.535	Amendment	July 21, 1995 (19 Ill. Reg. 10390)

11) Statement of Statewide Policy Objectives: These emergency amendments do not affect units of local government.

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

12) Information and questions regarding these Emergency Amendments shall be directed to:

Joanne Jones
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, Illinois 62762
(217) 524-3215

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

140.1 Incorporation By Reference
140.2 Medical Assistance Programs

EMERGENCY

140.3 Covered Services Under the Medical Assistance Programs for AFDC, AFDC-MANG, AABD, AABD-MANG, RRP, Individuals Under Age 18 Not Eligible for AFDC, Pregnant Women Who Would Be Eligible if the Child Were Born and Pregnant Women and Children Under Age Eight Who Do Not Qualify as Mandatory Categorically Needy and Disabled Persons Under Age 21 Who May Qualify for Medicaid and In-Home Care (Model Waiver)
140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)

140.5 Covered Medical Services Under GA

140.6 Medical Services Not Covered

140.7 Medical Assistance provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight

140.8 Medical Assistance For Qualified Severely Impaired Individuals

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AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI, and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI, and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 854, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg.

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6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342,

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emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7249, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a

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maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; for a maximum of 150 days; amended at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14843, effective October 6, 1995, for a maximum of 150 days.

SUBPART A: GENERAL PROVISIONS

Section 140.2 Medical Assistance Programs

EMERGENCY

- a) Under the Medical Assistance Programs, the Department pays participating providers for necessary medical services, specified in Section 140.3 through 140.7 for:

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- 1) persons eligible for financial assistance under the Department's Aid to the Aged, Blind or Disabled-State Supplemental Payment (AABO-SGP) and Aid to Families with Dependent Children (AFDC) programs (Medicaid - MAG);
 - 2) persons who would be eligible for financial assistance but who have resources in excess of the Department's eligibility standards and who have incurred medical expenses greater than the difference between their income and the Department's standards (Medicaid - MANG);
 - 3) persons receiving financial assistance under the Department's General Assistance (GA) program, either State Transitional Assistance or State Family and Children Assistance (GA-Medical);
 - 4) individuals under age 18 who do not qualify for AFDC/AFDC-MANG and infants under age one year (see Section 140.7);
 - 5) pregnant women who would not be eligible for AFDC/AFDC-MANG if the child were born and who do not qualify as mandatory categorically needy (see Section 140.9);
 - 6) persons who are eligible for Title IV-E adoption assistance/foster care assistance from another State and who are living in Illinois; and
 - 7) noncitizens who have an emergency medical condition (see 89 Ill. Adm. Code 120.310); however, payment is not included for care and services related to an organ transplant procedure.
- b) "Necessary medical care" is that which is generally recognized as standard medical care required because of disease, disability, infirmity or impairment.
- c) The Department may impose prior approval requirements, as specified by rule, to determine whether the medical care is necessary and eligible for payment from the Department in individual situations. Such requirements shall be based on recommendations of technical and professional staff and advisory committees.
- d) When recipients are entitled to Medicare benefits, the Department shall assume responsibility for their deductible and coinsurance obligations, unless the recipients have income and/or resources available to meet these needs. The total payment to a provider from both Medicare and the Department shall not exceed either the amount that Medicare determines to be a reasonable charge or the Department standard for the services provided, whichever is applicable.
- e) The Department shall pay for services and items not allowed by Medicare only if they are provided in accordance with Department policy for recipients not entitled to Medicare benefits.
- f) The Department may contract with qualified practitioners, hospitals and all other dispensers of medical services for the provision and reimbursement of any and all medical care or services as specified in the contract on a prepaid capitation basis (i.e., payment of a fixed amount per enrollee made in advance of the service); volume purchase basis (i.e., purchase of a volume of goods or services for a price specified in the contract); ambulatory visit basis (i.e., one

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comprehensive payment for each visit regardless of the services provided during that visit) or per discharge basis (i.e., one comprehensive payment per discharge regardless of the services provided during the stay). Such contracts shall be based either on formally solicited competitive bid proposals or individually negotiated rates with providers willing to enter into special contractual arrangements with the State.

- g) The Department may require that recipients of medical assistance under any of the Department's programs exercise their freedom of choice by choosing to receive medical care under the traditional fee for service system or through a prepaid capitation plan or under one of the other alternative contractual arrangements described in subsection (f). The categories of recipients who may choose or be assigned to an alternative plan will be specified in the contract. Recipients required to make such a choice will be notified in writing by the Department. If a recipient does not choose to exercise his/her freedom of choice, the Department may assign that recipient to a prepaid plan. Under such a plan, recipients would obtain certain medical services or supplies from a single source or limited source. Recipients enrolled in a prepaid plan may disenroll. If a recipient is assigned to a prepaid plan he/she will be permitted to revoke that assignment at any time. The Department will notify recipients in writing if they are assigned to a prepaid plan. Recipients enrolled in or assigned to a prepaid plan will receive written notification advising them of the services which they will receive from the plan. Covered services not provided by the plan will be reimbursed by the Department on a fee for service basis. Recipients will receive a medical eligibility card which will apply to such services. The recipient shall notify the contractor and execute a disenrollment form if he/she wants to disenroll or revoke the assignment.

- h) The Department may enter into contracts for the provision of medical care on a prepaid capitation basis from a Health Maintenance Organization (HMO) whereby the recipient who chooses to receive medical care through an HMO must stay in the HMO for a certain period of time, not to exceed six months (the enrollment period). Upon written notice, the recipient may choose to disenroll from such an HMO at any time within the first month of each enrollment period. The Department will send the recipient a notice at least 30 days prior to the end of the enrollment period which gives the recipient a specified period of time in which to inform the Department if the recipient does not wish to re-enroll in the HMO for a new enrollment period. The recipient may then disenroll at the end of the enrollment period only if the recipient responds to the notice and indicates in writing a choice to disenroll. Failure to respond to the notice will result in automatic re-enrollment for a new enrollment period. Recipients shall also be allowed to disenroll at any time for cause.

- i) The Department may enter into contracts for the provision of medical care on a prepaid capitation basis from a Health Maintenance

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Organization whereby the recipient who chooses to receive medical care through an HMO may choose to disenroll at any time, upon written notice.

- j) The Department shall pay for services under the Maternal and Child Health Health--Moms/Health--Kids Program, a primary health care program for pregnant women and children (see Subpart G).

(Source: Emergency amendment at 19 Ill. Reg. **14833**, effective October 6, 1995, for a maximum of 150 days)

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section 140.40 Prior Approval for Medical Services or Items
EMERGENCY

- a) The Department may impose prior approval requirements, as specified by rule, to determine the essentialness of medical care provided in individual situations. Such requirements shall be based on recommendations of technical and professional staff and advisory committees.
- b) In general, in order for prior approval to be granted, items and services must be:
- 1) non-experimental,
 - 2) appropriate to the client's needs,
 - 3) necessary to avoid institutional care, and
 - 4) medically necessary to preserve health, alleviate sickness, or correct a handicapping condition.
- c) Providers are responsible for requesting prior approval for medical services or items. Prior approval requests must show:
- 1) the case name,
 - 2) patient name,
 - 3) case identification number,
 - 4) recipient number,
 - 5) patient age, address, and whether or not the patient resides in a group care facility,
 - 6) identification of the practitioner prescribing or ordering the item or service,
 - 7) diagnosis,
 - 8) description of item or service,
 - 9) treatment plan,
 - 10) how long the service or item will be needed, and
 - 11) purchase or rental cost.
- d) To the extent possible, the request should show how the item or service is expected to correct or help the condition, and why the requested treatment plan is better than any other plan commonly used to deal with similar diagnoses or conditions. Anything unique to the medical condition or living arrangement affecting the choice of a recommended treatment plan or item should be explained.

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- e) A written notice of disposition of the request for prior approval will be sent to the client within the time limits prescribed below. If the notice of disposition is not sent within the applicable time limit, prior approval will be granted automatically. Oral notification only will be given when a request for medical transportation is approved.
- f) ~~Certain services of providers other than the Primary-Care-Provider under the Healthy-Women/Healthy-Kids-Program require authorization by the Primary-Care-Provider (see Section 140-932).~~

(Source: Emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.413 Limitation on Physician Services
EMERGENCY

- a) When provided in accordance with the specified limitations and requirements, the Department shall pay for the following services:

1) Termination of pregnancy -- only in those cases in which the physician has certified in writing to the Department that the procedure is necessary to preserve the life of the mother. All claims for reimbursement for abortions or induced miscarriages or premature births must be accompanied by the physician's written certification which specifies that the procedure is necessary for preservation of life of woman, or that the induced premature birth was to produce a live viable child and was necessary for the health of mother or her unborn child.

2) Sterilization

A) Therapeutic sterilization -- only when the procedure is either a necessary part of the treatment of an existing illness, or is medically indicated as an accompaniment of an operation on the female genitourinary tract. Mental incapacity does not constitute an illness or injury in respect to this procedure.

B) Nontherapeutic sterilization -- only for recipients age 21 or older. The physician must obtain the recipient's informed written consent in a language understandable to the recipient before performing the sterilization and must advise the recipient of the right to withdraw consent at any time prior to the operation. The operation shall be performed no sooner than 30 days and no later than 180 days following the date of the recipient's written informed consent except in cases of premature delivery or emergency abdominal surgery. An individual may consent to be sterilized at the time of premature delivery or emergency abdominal surgery if at least 72 hours have passed since informed consent was given.

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- 3) End stage renal disease treatment (chronic hemodialysis and kidney transplantation) is limited to those recipients who have been determined medically eligible for such treatment by the Illinois Department of Public Health.
- 4) By-pass surgery for morbid obesity -- only with the prior approval of the Department. The Department shall approve payment for this service only in those cases in which it determines that obesity is exogenous in nature, the recipient has had the benefit of other therapy with no success, and endocrine disorders have been ruled out. (See Sections 140.40 through 140.42 for prior approval requirements.)
- 5) Psychiatric Services
- A) Treatment -- when the services are provided by a physician who has been enrolled as an approved provider with the Department. Psychiatric treatment services are not covered for Recipients of General Assistance or Aid to the Medically Indigent.
- B) Consultation -- only when necessary to determine the need for psychiatric care. Services provided subsequent to the initial consultation must comply with the requirements for treatment.
- 6) Services provided to a recipient in his place of residence -- only when the recipient is physically unable to go to the physician's office.
- 7) Services provided to recipients in group care facilities by a physician other than the attending physician -- only emergency services provided when the attending physician of record is not available or when the attending physician has made referral with the recipient's knowledge and permission.
- 8) Services provided to recipients in a group care facility by a physician who derives a direct or indirect profit from total or partial ownership (or from other types of financial investment for profit in the facility -- only when occasioned by an emergency due to acute illness, unavailability of essential treatment facilities in the vicinity for short-term care pending transfer, or when there is no comparable facility in the area.
- 9) Maternity care -- Payment shall be made for pre-natal and post-natal care only when the following conditions are met:
- A) the physician, whether based in a hospital, clinic, or individual practice, retains hospital delivery privileges or maintains a written referral arrangement with another physician who retains such privileges or has been included in the Maternal and Child Health Program as a result of having entered into an appropriate Healthy Moms/Healthy Kids Program provider agreement or receives payment authorization for referral from the Department's independent contractor as described in Sections 140-928(a)(7) and 140-932(a);
- B) the written referral agreement is kept on file and is

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available for inspection at the physician's place of business, and details procedures for timely transfer of medical records; and

- C) maternal services are delivered in a manner consistent with the quality of care guidelines published by the American College of Obstetricians and Gynecologists in the current edition of the "Standards for Obstetric Gynecologic Services" (1989 Edition), 409 12th Street S.W., Washington, D.C. 20024-2189.

10) Physician services to children under age twenty-one

- A) Payment shall be made only when the physician meets one or more of the following conditions. The physician:
- i) has admitting privileges at a hospital; or
 - ii) is certified or is eligible for certification in pediatrics or family practice by the medical specialty board recognized by the American Board of Medical Specialties; or
 - iii) is employed by or affiliated with a Federally Qualified Health Center; or
 - iv) is a member of the National Health Service Corps; or
 - v) has been certified by the Secretary of the Department of Health and Human Services as qualified to provide physicians' services to a child under 21 years of age; or
 - vi) has current, formal consultation and referral arrangements with a pediatrician or family practitioner for the purposes of specialized treatment and admission to a hospital. The written referral agreement is kept on file and is available for inspection at the physician's place of business, and details procedures for timely transfer of medical records; or
 - vii) has entered into a Maternal and Child Health provider agreement or has otherwise been transferred in from the Healthy Moms/Healthy Kids Program provider agreement--or---receives--payment--authorization--for referral--from--the--Department--independent--contractor described--in--Sections--140-928(a)(7)--and--140-932(a)(7).
- B) The physician should notify the Department of the way in which he/she meets the above criteria; and
- C) Services to children are delivered in a manner consistent with the standards of the American Academy of Pediatrics and rules as published by the Illinois Department of Public Health (77 Ill. Adm. Code 630, Maternal and Child Health Services; 77 Ill. Adm. Code 665, Child Health Examinations; 77 Ill. Adm. Code 675, Hearing Screening; 77 Ill. Adm. Code 685, Vision Screening).
- 11) Hysterectomy -- only if the individual has been informed, orally

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and in writing, that the hysterectomy will render her permanently incapable of reproducing and the individual has signed a written acknowledgement of receipt of the information. The Department will not pay for a hysterectomy which would not have been performed except for the purpose of rendering an individual permanently incapable of reproducing.

12) Selected surgical procedures -

- A) Tonilllectomies or Adenoidectomies
- B) Hemorrhoidectomies
- C) Cholecystectomies
- D) Disc Surgery/Spinal Fusion
- E) Hysterectomies
- F) Joint Cartilage Surgery/Meniscectomies
- G) Excision of Varicose Veins
- H) Submucous Resection/Rhinoplasty/Repair of Nasal System
- I) Mastectomies for Non-Malignancies
- J) Surgical procedures which generally may be performed in an outpatient setting (see Section 140.117) only if the Department authorizes payment. The Department will in some instances require that a second physician agree that the surgical procedure is medically necessary prior to approving payment for one of these procedures. The Department will require a second opinion when the attending physician has been notified by the Department that he will be required to obtain prior approval for payment for the surgeries listed. (See Sections 140.40 through 140.42 for prior approval requirements). The Department will select physicians for this requirement based on the recommendation of a peer review committee that has reviewed the utilization pattern of the physician.

13) Mammography screening

- A) Covered only when ordered by a physician for screening by low-dose mammography for the presence of occult breast cancer under the following guidelines:
 - i) a baseline mammogram for women 35 through 39 years of age;
 - ii) a mammogram every one to two years for women 40 through 49 years of age; or
 - iii) a mammogram once per year for women 50 years of age or older.
- B) As used in this rule, "low-dose mammography" means the x-ray examination of the breast using equipment specifically designated for mammography that will meet appropriate radiological standards.
- b) In cases where a physical examination by a second physician is needed, the Department will notify the recipient and designate a physician to perform the examination. Physicians will be subject to this requirement for six (6) months after which a request can be submitted

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to the peer review committee to consider removal of the prior approval requirement.

(Source: Emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days)

Section 140.460 Clinic ServicesEMERGENCY

The following types of clinics are eligible to receive payment for clinic services:

- a) Hospital-based organized clinics;
- b) Encounter rate clinics;
- c) Federally Qualified Health Centers (FQHC);
- d) Rural health clinics;
- e) Mental health clinic services (see Sections 140.452 through 140.456); and
- f) Maternal and Child Health Healthy--Moms/Healthy--Kids-Managed-Care Clinics.

(Source: Emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days)

Section 140.461 Clinic Participation, Data and Certification RequirementsEMERGENCY

a) Hospital-based organized clinics must:

- 1) Have an administrative structure, staff program, physical setting, and equipment to provide comprehensive medical care;
- 2) Agree to assume complete responsibility for diagnosis and treatment of the patients accepted by the clinic, or provide, at no additional cost to the Department, for the acquisition of these services through contractual arrangements with external medical providers;
- 3) Be adjacent to or on the premises of the hospital and be licensed under the Hospital Licensing Act or the University of Illinois Hospital Act; and

- 4) Meet the applicable requirements of 89 Ill. Adm. Code 148.40(d).
- b) Encounter rate clinics must be presently participating in the Medical Assistance Program. Individual practitioners associated with such centers may apply for participation in the Medical Assistance Program in their individual capacities. In order to participate in the Maternal and Child Health Healthy--Moms/Healthy--Kids Program, as described in Subpart G, encounter rate clinics shall be required to meet the additional participation requirements described in Section 140.924(a)(2)(B).

- c) Rural health clinics must be certified by the Social Security Administration as meeting the requirements for Medicare participation.

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d) Federally Qualified Health Centers (FQHC):

- 1) Must be Health Centers which:

- A) Receive a grant under Section 329, 330 or 340 of the Public Health Service Act; or
- B) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, are determined to meet the requirements for receiving such a grant.

2) In-order-to-participate-in-the-Healthy-Moms/Healthy-Kids-Program as-described-in-Subpart-G-FQHCs-shall-be-required-to-meet-the additional-participation-requirements-described-in--Section 140.924(a)(2)(A).

2) Section 4602 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90), which amended Section 1902(a)(55) of the Social Security Act (42 U.S.C. Section 1396a(a)(55)), requires states to receive and initially process Medicaid applications from low-income pregnant women and children under the age of 19 at locations other than the local Public Aid office. Such a site is referred to as an outstation.

- A) Outstations will be located at those FQHCs which the Department determines serve heavy Medicaid populated areas. For areas in which the Department determines that maintaining outstation workers is not economical, the local Public Aid office will continue to be the application location.

- B) The FQHCs, which will provide outstation eligibility staff to accept and assist in the initial processing of the Medicaid DPA 2378MC application for pregnant women and children, will forward the completed application to the appropriate IDPA local office. Initial processing means accepting and completing the application, providing information and referrals, obtaining required documentation to complete processing of the application, assuring that the information contained on the application form is complete and conducting any necessary interviews. Neither the FQHCs nor the outstation workers will evaluate the information contained on the application, nor make any determination of eligibility or ineligibility. The IDPA local office is responsible for these functions.

- C) Costs allowable under the federal outstation mandate for completing form DPA 2378MC will be itemized in Section B of Schedule I of the FQHC Medicaid cost report and will be provided annually in the FQHC cost reporting process. These allowable costs will be collected, computed and calculated, and will result in the establishment of an outstation administrative rate and a Medicaid rate. The allowable costs are:

- i) Salary of outstation worker;

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- ii) Fringe benefits;
 - iii) Training;
 - iv) Travel; and
 - v) Supplies.
- D) FQHC outpatient workers must receive certification through Maternal and Child Health (MCH) process training by the Department before they begin to perform eligibility processing functions. Failure to become certified results in any MCH application completed by an ineligible worker being non-allowed on the cost report.
- E) FQHCs must have adequate staff trained with proper backup to accommodate unforeseen problems. FQHCs must be able to meet the demand of this initiative, either using staff at one location or rotating staff as dictated by workload or staffing availability. The FQHC must have staff available at each outpatient location during regular office operating hours.
- F) Outstation intake staff may perform other FQHC intake processing functions, but the time spent on outstation activities must be documented and must be identifiable for cost reporting and auditing purposes.
- G) The FQHC must display a notice in a prominent place at the outstation location advising potential applicants of the times that outstation intake workers will be available. The notice must include a telephone number that applicants may call for assistance.
- H) The FQHC must comply with federal and State laws and regulations governing the provision of adequate notice to persons who are blind or deaf or who are unable to read or understand the English language.
- e) Individual practitioners associated with such centers may apply for participation in the Medical Assistance Program in their individual capacities.
- f) Maternal and Child Health Healthy--Moms/Healthy--Kids--Managed-Care Clinics

1) Types of Clinics

The following clinics shall qualify as Maternal and Child Health Healthy--Moms/Healthy--Kids--Managed-Care Clinics ~~are as follows~~:

- A) Certified Hospital Ambulatory Primary Care Centers (CHAPCC), which are hospital-based organized outpatient clinics, as described in subsection (a) above, meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that, through staff and supporting resources, provide ambulatory primary care to Medicaid children from birth through 20 years of age, and pregnant women in a non-emergency room setting. At least 50% of all staff physicians providing care in a CHAPCC must routinely provide obstetric, pediatric, internal

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- medicine, or family practice care in the clinic setting, and at least 50% of patient visits to the CHAPCC must be for primary care.
- B) Certified Hospital Organized Satellite Clinics (CHOSC), which are clinics meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that are owned, operated, and/or managed by a hospital but do not qualify as hospital-based organized clinics, as described in subsection (a) above, because they are not located adjacent to or on the premises of the hospital or are not licensed under the Hospital Licensing Act or the University of Illinois Hospital Act. Through staff and supporting resources, these clinics provide ambulatory primary care in a non-emergency setting to Medicaid children from birth through 20 years of age, and to pregnant women. At least 50% of all staff physicians providing care in a CHOSC must routinely provide obstetric, pediatric, internal medicine, or family practice care in the clinic setting, and at least 50% of patient visits to the CHOSC must be for primary care. Primary care consists of basic health services provided by a physician or other qualified medical professional to maintain the day-to-day health status of a patient, without requiring the level of medical technology and specialized expertise necessary for the provision of secondary and tertiary care.
- C) Certified Obstetrical Ambulatory Care Centers (COBACC), which are hospital-based organized clinic entities, as described in subsection (a) above, meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that, through staff and supporting resources, provide primary care and specialty services to Medicaid-eligible pregnant women, especially those determined to be non-compliant or at high risk, in an outpatient setting.
- D) Certified Pediatric Ambulatory Care Centers (CPACC), which are hospital-based organized clinic entities, as described in subsection (a) above, meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that, through staff and supporting resources, provide pediatric primary care and specialty services to Medicaid enrolled children with specialty needs, as described in Section 140.462(e)(3)(C), from birth through 20 years of age in an outpatient setting. Hospitals with CPACCs must also provide primary care for at least 1,500 children, not eligible for enrollment in the CPACC, as part of a CHAPCC, as described in subsection (f)(1)(A) above, or an encounter rate clinic, as described in Section 140.461(b) and Section 140.924(a)(2)(B). Hospitals unable to meet this

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meets the minimum standards of the Joint Commission on Accreditation of Health Care Organizations (JCAHO);
D) Provide historical evidence of fiscal solvency and financial projections for the future, in a manner specified by the Department; and

E) Utilize a formal client tracking and care management system that affords timely maintenance of, access to, and continuity of medical records without compromising client confidentiality; and

G) In accordance with the terms of the Department's Healthy Moms/Healthy Kids program manual and provider agreement--for the applicable Healthy Moms/Healthy Kids managed care clinic identified in subsection (f)(1) above, provide specific Healthy Moms/Healthy Kids--client--assignment--capacity proposals to the Department--and--agree--to--accept site-specific enrollment--and--primary--care--practitioner responsibility for a specified minimum number of:

i) in the case of clinics described in subsections (f)(1)(A) and (f)(1)(B) above, clients assigned by the Department or its agent;

ii) in the case of clinics described in subsection (f)(1)(C) above, high-risk--and/or--non-compliant pregnant women--assigned by the Department--or--its agent;

iii) in the case of clinics described in subsection (f)(1)(B) above, children assigned by the Department or its agent;

3) Special Participation Requirements

In addition to the Maternal and Child Health Healthy Moms/Healthy Kids provider participation requirements described in Section 140.924(a)(1), and the general participation requirements described in subsection (f)(2) above, special participation requirements shall apply as follows:

A) Clinics described in subsections (f)(1)(A) and (f)(1)(B) above must:

i) Serve a total population that includes at least 20% Medicaid and medically indigent clients;

ii) Perform a risk assessment on pregnant women assigned to them in order to determine if the woman is at high risk; and

iii) Provide or arrange for specialty services when needed by pregnant women or children Healthy Moms/Healthy Kids--clients.

B) Clinics described in subsection (f)(1)(C) must:

i) Be a distinct department of a hospital that also operates as a Level II or Level III perinatal center;

ii) Provide services to pregnant women demonstrating the need for extensive health care services due to

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volume requirement must agree to serve as a specialty referral site for another hospital operating a CPACC through a written agreement submitted to the Department.

2) General Participation Requirements

In addition to the Maternal and Child Health Healthy Moms/Healthy Kids--provider participation requirements described in Section 140.924(a)(1), the Maternal and Child Health Healthy Moms/Healthy Kids--managed-care clinics identified in subsection (f)(1) above must:

A) Provide--managed--care--to--clients--as--described--in--Section 140.924(b)(1);

A) Be operated by a disproportionate share hospital, as described in 89 Ill. Adm. Code 148.120, be staffed by board certified/eligible physicians who have hospital admitting and/or delivery privileges, be operated by a hospital in an organized corporate network of hospitals having a total of more than 1,000 staffed beds, and agree to provide care for a minimum of 100 pregnant women or children Healthy Moms/Healthy Kids--clients; or be a primary care teaching site of an organized academic department of:

i) In the case of clinics described in subsections (f)(1)(A) and (f)(1)(B) above, a pediatric or family practice residency program accredited by the American Accreditation Council for Graduate Medical Education or other published source of accrediting information.

ii) In the case of clinics described in subsection (f)(1)(C) above, an obstetrical residency program accredited by the American Accreditation Council for Graduate Medical Education or other published source of accrediting information with at least 130 full-time equivalent residents.

iii) In the case of clinics described in subsection (f)(1)(D) above, a pediatric or family practice residency program accredited by the American Accreditation Council for Graduate Medical Education or other published source of accrediting information with at least 130 full-time equivalent residents;

B) Under the direction of a board certified/eligible physician who has hospital admitting and/or delivery privileges and provides direct supervision to residents practicing in the certified ambulatory site, provide:

i) In the case of clinics described in subsections (f)(1)(A) and (f)(1)(B) above, primary care.

ii) In the case of clinics described in subsection (f)(1)(C) above, obstetric and specialty services.

iii) In the case of clinics described in subsection (f)(1)(D) above, primary care and specialty services;

C) Maintain a formal, ongoing quality assurance program that

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- complicated medical conditions placing them potentially at high risk of abnormal delivery, including substance abuse or addiction problems. Hospital clinics will not qualify to participate unless they provide both primary and specialty services to women who currently are Medicaid clients, or Medicaid-eligible women who receive services at the COBACCs; in this capacity, COBACC's, as perinatal centers, shall also agree to accept assignment of pregnant women determined to be at high risk of abnormal delivery;
- iii) Operate a designated 24-hour per day emergency referral site with a defined practice for the care of obstetric emergencies;
- iv) Have an established program of services for the treatment of substance-abusing pregnant women;
- v) Integrate an accredited obstetrical residency program with subspecialty residency programs to encourage future physicians to devote part of their professional services to disadvantaged and underserved high-risk pregnant women; and
- vi) Operate organized ambulatory clinics for children that are easily accessible to the medically underserved.
- C) Clinics described in subsection (f)(1)(D) above must:
- i) Provide primary and specialty services for children demonstrating the need for extensive health care services due to a chronic condition as described in Section 140.462(e)(3)(C)---EPAGEs--shall-not-enroll children-who-receive-specialty-services-from-the-EPAGE entity-but-receive-primary-care-outside-the-EPAGE-and do-not-have-a-diagnosed-condition-contained-in--but not---limited---to---those---listed---in---Section 140.462(e)(3)(E)-requiring-specialty-services-unless the-child-is--the-sibling-of--a-EPAGE-eligible-or-enrolled-individual;
- ii) Operate a designated 24-hour per day emergency referral site with a defined practice for the care of pediatric emergencies;
- iii) Provide access to necessary pediatric primary and specialty services within 24 hours after referral;
- iv) Be a distinct department of a disproportionate share hospital, as described in 89 Ill. Adm. Code 148.120(a)(5);
- v) Integrate an accredited pediatric or family practice residency program with subspecialty residency programs to encourage future physicians to devote part of their professional services to disadvantaged and underserved children with specialty needs; and

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- vi) Operate organized ambulatory clinics for children that are easily accessible to the medically underserved.
- 4) Data Requirements
- The Maternal and Child Health Healthy-Moms/Healthy-Kids--managed care clinics described in subsection (f)(1) above shall be required to submit patient level historical data to the Department, which may include, but shall not be limited to historical data on the use of the hospital emergency room department.
- 5) Certification Requirements
- Certification of qualifying status of a Maternal and Child Health Healthy--Moms/Healthy--Kids--managed--care clinic identified in subsection (f)(1) above shall occur annually during the first two years of participation and every other year thereafter. In addition:
- A) The certification process shall consist of a review of the completed application and related materials to determine provisional certification status. Those centers submitting approved applications shall then be reviewed on-site by Department staff within 60 days after application approval. Final notification of certification status shall be rendered within 30 days after the site review, pending provider submittal of a written plan of correction for any deficiencies discovered during the entire application process.
- B) Entities interested in becoming a Maternal and Child Health Healthy-Moms/Healthy-Kids--managed--care clinic must direct a written request for an application packet to the following address:
- Maternal and Child Health Managed---Care Clinic
Certification
Bureau of Hospital Services
Illinois Department of Public Aid
201 South Grand Avenue East, Concourse
Springfield, Illinois 62763-0001
- C) Certification status shall be suspended for Maternal and Child Health Healthy-Moms/Healthy-Kids--managed--care clinics identified in subsection (f)(1) above that do not submit data to the Department, as required under subsection (f)(4) above, within 180 days after the Department's request for the submittal of such data.

(Source: Emergency amendment at 19 Ill. Reg. **14833**, effective October 6, 1995, for a maximum of 150 days)

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Payment shall be made to clinics for the following types of services when provided by, or under the direction of, a physician:

- a) Hospital-based organized clinics:
 - 1) With respect to those hospital-based organized clinics that qualify as Maternal and Child Health ~~Healthy-Moms/Healthy-Kids managed-care~~ clinics, as described in Section 140.461(f)(1), covered services are those described in subsection (a) below, as appropriate.
 - 2) With respect to all other hospital-based organized clinics, covered services are those described in 89 Ill. Adm. Code 148.
- b) Encounter rate clinics:
 - 1) With respect to those encounter rate clinics that qualify as Maternal and Child Health ~~Healthy-Moms/Healthy-Kids~~ providers, as described in Section 140.924(a)(2)(B), covered services are those described in Section 140.922.
 - 2) With respect to all other encounter rate clinics, covered services are medical services which provide for the continuous health care needs of persons who elect to use this type of service.
- c) Rural health clinics:
 - 1) Physician's services, including covered services of nurse practitioners, nurse midwives and physician-supervised physician assistants.
 - 2) Medically-necessary services and supplies furnished as an incident to a physician's professional services.
- d) Federally Qualified Health Centers:
 - 1) ~~With respect to those PQHC's, that qualify as Healthy Moms/Healthy-Kids providers, as described in Section 140.924(f)(1)(A), covered services are those described in Section 140.922.~~
 - 2) With respect to all other PQHC's, covered services are the following services, when delivered in a clinic setting as described in 42 CFR 440.90 (1989):
 - 1) ~~Physician's~~ services, including covered services of nurse midwives, nurse practitioners and physician-supervised physician assistants.
 - 2) ~~Medically-necessary services and supplies furnished by or under the direction of a physician or dentist within the scope of licensed practice, including:~~
 - A) ~~medical case management;~~
 - B) ~~laboratory services;~~
 - C) ~~occupational therapy;~~
 - D) ~~patient transportation;~~
 - E) ~~pharmacy services;~~
 - F) ~~physical therapy;~~
 - G) ~~podiatric services;~~
 - H) ~~psychological services;~~
 - 3) ~~services required to be provided by Section 329.330 or 340~~

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of the Public Health Service Act;
J) ~~speech and hearing services;~~
K) ~~x-ray services;~~

- L) ~~health education;~~
- M) ~~dental services; and~~
- N) ~~nutrition services.~~

- e) ~~Maternal and Child Health Healthy-Moms/Healthy-Kids--Managed-Care~~ Clinics:

Payment shall be made to the Maternal and Child Health ~~Healthy-Moms/Healthy-Kids--managed-care~~ clinics identified in Section 140.461(f)(1) for the following services when provided by, or under the direction of, a physician:

 - 1) In the case of clinics described in Sections 140.461(f)(1)(A) and 140.461(f)(1)(B), primary care services delivered by the clinic, which must include, but are not necessarily limited to:
 - A) Early, periodic, screening, diagnostic, and treatment (EPSDT) services as defined in Section 140.485;
 - B) Childhood risk assessments to determine potential need for mental health and substance abuse assessment and/or treatment;
 - C) Regular immunizations for the prevention of childhood diseases;
 - D) Follow-up ambulatory medical care deemed necessary, recommended, or prescribed by a physician as a result of an EPSDT screening;
 - E) Routine prenatal care, including risk assessment, for pregnant women; and
 - F) Specialty care as medically needed.
 - 2) In the case of clinics described in Section 140.461(f)(1)(C), primary care and specialty services delivered by the clinic, which must include, but are not necessarily limited to:
 - A) Prenatal care, including risk assessment (one risk assessment per pregnancy);
 - B) All ambulatory treatment services deemed medically necessary, recommended, or prescribed by a physician as the result of the assessment; and
 - C) Services to pregnant women with diagnosed substance abuse or addiction problems.
 - 3) In the case of clinics described in Section 140.461(f)(1)(D):
 - A) Comprehensive medical and referral services.
 - B) Primary care services, which must include, but are not necessarily limited to:
 - i) early, periodic, screening, diagnostic, and treatment (EPSDT) services as defined in Section 140.485;
 - ii) regular immunizations for the prevention of childhood diseases; and
 - iii) follow-up ambulatory medical care deemed necessary, recommended, or prescribed by a physician as the

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result of an EPSDT screening.

- C) Pediatric specialty services, which must include, at a minimum, necessary treatment for:
- i) asthma,
 - ii) congenital heart disease,
 - iii) diabetes, and
 - iv) sickle cell anemia.
- D) Ambulatory treatment for other medical conditions as specified in the center's certificate application and as approved by the Department.

(Source: Emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days)

Section 140.463 Clinic Service Payment

EMERGENCY

a) Hospital-Based Organized Clinics:

- 1) With respect to those hospital-based organized clinics that qualify as Maternal and Child Health ~~Health--Moms/Healthy--Kids managed--care~~ clinics, as described in Section 140.461(f)(1), payment shall be in accordance with Section 140.930 ~~140-464~~.
- 2) With respect to all other hospital-based organized clinics, payment shall be in accordance with 89 Ill. Adm. Code 148.140.

- b) Encounter Rate Clinic. ~~1) Payment shall be made at the lesser of:~~
- 1) ~~A) The clinic's approved all inclusive interim per encounter rate as of May 1, 1981; or~~
 - 2) ~~B) \$50.00 per encounter; or~~
 - 3) ~~C) the clinic charge to the general public.~~

2) ~~Encounter-rate-clinics-that-qualify-as-Healthy-Moms/Healthy--Kids providers,--as-described--in--Section--140-924(a)(2)(B)--shall receive--a--patient--management--fee--as--described--in--Section 140-930(b)--in--addition--to--the--reimbursement--described--in subsection-(b)(1)-above-~~

c) Federally Qualified Health Centers (FQHC):

1) Medical Encounter Rate

- A) Payment for services rendered after March 31, 1990, shall be made at an individual, all inclusive, prospective per diem rate calculated on the basis of the Department's encounter rate methodology and audited provider fiscal information reported on the Medicaid Free-standing Federally-Funded Health Center Worksheet (Health Care Financing Administration Form 242), as supplemented by FQHC Medicaid Supplemental Schedules A, B and C reflecting the actual costs of delivering encounter services as listed in Section 140.462 (a)(4).

- B) All cost reports will be audited by the Department to determine allowable costs for rate setting. The provider

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will be advised of any adjustments resulting from these audits.

- C) New rates effective each July 1 will be based on certified cost information from the provider's most recently audited fiscal year.
- D) Allowable costs will be updated to the midpoint of the rate year by an inflation factor derived from published economic indices.
- E) Interim payment for covered services rendered by FQHCs enrolled as of March 31, 1990, for which no audited costs are available shall be made at the individual FQHC rate in effect on March 31, 1990, as established by the Department.
- F) Interim payment for covered services rendered by FQHCs enrolled between March 31, 1990 and January 1, 1991, shall be made at the higher of:
- i) the provider's approved Medicare rate established by the designated federal intermediary for Rural Health Center or Federally Funded Health Center Services; or
 - ii) the 75th percentile of the statewide range of the Department's established encounter clinic rates (as defined in subsection (a) above) as of March 31, 1990.
- G) Payment shall be made at the interim rate to FQHCs enrolled before January 1, 1991, for covered services rendered from the later of the date of enrollment or April 1, 1990, until the certified date of provider receipt of the cost-based rate established by the Department for that provider.
- H) When an individual cost-based rate has been established by the Department in accordance with the method described in subsection (c)(1)(A) above, the Department shall reconcile interim payments made for covered services.
- i) Rate retroactivity from April 1, 1990, will only apply to clinics enrolled as of March 31, 1990, which submit an application to the Public Health Service for Federally Qualified Health Center status by November 1, 1990, and are subsequently designated as federally qualified.
 - ii) If the cost-based rate is higher than the interim rate, the Department shall pay the provider the rate differential for each claim paid at the interim rate.
 - iii) If the cost-based rate is lower than the interim rate, the provider shall refund to the Department the rate differential for each claim paid at the interim rate, either by direct payment to the Department or as credit applied against future service claims.
- I) Interim payment for covered services rendered by FQHCs enrolled on or after January 1, 1991, shall be made at the higher of:
- i) the provider's approved Medicare rate established by

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- B) Direct costs related to operation of the clinic in order to provide allowable dental services will be reported on the cost report and used in the rate calculation process.
- C) All cost reports will be audited by the Department to determine allowable costs for rate setting. The provider will be advised of any adjustments resulting from these audits.
- D) New rates effective each July 1 will be based on certified cost information from the provider's most recently audited fiscal year.
- E) Allowable costs will be updated to the mid point of the rate year by an inflation factor derived from published economic indices.
- F) Payment for covered dental services shall be made by the Department's prepaid dental service contractor.
- G) When an individual cost-based rate has been established by the Department in accordance with the method described in subsection (c)(2)(A) above, the Department's prepaid dental service contractor shall reconcile interim payments made for covered dental services.
- i) Rate retroactivity will only apply to clinics enrolled as of March 31, 1990 which submit an application to the Public Health Service for Federally Qualified Health Center status by November 1, 1990, and are subsequently designated as federally qualified.
 - ii) If the cost-based rate is higher than the interim rate, the Department's prepaid dental service contractor shall pay the provider the rate differential for each claim paid at the interim rate.
 - iii) If the cost-based rate is lower than the interim rate, the provider shall refund to the Department the rate differential for each claim paid at the interim rate.
- H) Interim payment for covered dental services rendered by FQHCs enrolled on or after January 1, 1991 shall be made at the median of the statewide range of the Department's established cost-based FQHC dental rates in effect at the time of enrollment.
- I) Payment shall be made at the interim rate for Centers enrolled on or after January 1, 1991, for covered dental services rendered between the date of enrollment and 30 days after the date of the Department receipt of the complete and correct cost report of the provider. Payment for covered dental services rendered by the provider after 30 days of Department receipt of the provider's complete and correct cost report will be made at the rate determined on the basis of the submitted cost report and the Department's FQHC rate. If the FQHC has not submitted the required audited fiscal information on the forms specified in subsection (c)(2)(A)
- J)

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the designated federal intermediary for Rural Health Centers and Federally Funded Health Centers Services; or

ii) the median of the statewide range of the Department's established cost-based FQHC rates in effect at the time of enrollment.

- J) Payment shall be made at the interim rate for Centers enrolled on or after January 1, 1991, for covered services rendered between the date of enrollment and 30 days after the date of Department receipt of the complete and correct cost report of the provider. Payment for covered medical services rendered by the provider 30 days after Department receipt of the provider's complete and correct cost report will be made at the rate determined on the basis of the submitted cost report and the Department's FQHC rate methodology.
- K) If the FQHC has not submitted the required audited fiscal information on the forms specified in subsection (c)(1)(A) of this Section within 90 days of the certified date of receipt of the forms, the Department shall suspend payment for covered medical services until the required information is received by the Department, unless the enrolled Center has been in operation less than one year and has no audited cost history.
- L) Enrolled FQHCs which have been in operation less than one year and have no audited cost history must submit required audited fiscal information reflecting the first six months of operation on the forms specified in subsection (c)(1)(A) of this Section, within 90 days after the later of the end of the sixth month of operation or the certified mail date of receipt of the forms. The rate calculated from these costs will be in effect for services rendered on and after the first day of the month following the month of receipt of the required fiscal information by the Department.
- M) The Department will not process a claim for payment of FQHC services rendered after June 30, 1990, that does not indicate all individual medical services delivered during the encounter, by procedure code.
- 2) Dental Encounter Rate
- A) Payment for dental services rendered after March 31, 1990, shall be made at an individual, all inclusive, prospective per diem rate calculated on the basis of the Department's encounter rate methodology and audited provider fiscal information reported on the Medicaid Preexisting Federally-Funded Health Center Worksheet (Health Care Financing Administration Form 242), as supplemented by FQHC Medicaid supplemental Schedules A, B, and C reflecting the actual costs of delivering dental services.

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above within 90 days of the certified mail date of receipt of the forms, the Department's prepaid dental service contractor shall suspend payment for covered dental services until the required information is received by the Department, unless the enrolled Center has been in operation less than one year and has no audited cost history.

- K) Enrolled FORCs which have been in operation less than one year and have no audited cost history must submit required audited fiscal information reflecting the first six months of operation on the forms specified in subsection (c)(2)(A) within 90 days after the later of the end of the sixth month of operation or the certified date of receipt of the forms. The rate calculated from these costs will be in effect for dental services rendered on and after the first day of the month following the month of receipt of the required fiscal information by the Department.

3) Rate Appeals Process

- A) All appeals of audit adjustments or rate determinations must be submitted in writing to the Department. Appeals submitted within 30 calendar days of the rate notification, if upheld, shall be made effective as of the beginning of the rate year. The effective date of all other upheld appeals shall be the first day of the month following the date the completed appeal was submitted. Appeals for any rate year must be filed before the close of the rate year.
- B) To be accepted for review, the written appeal shall include:
- i) The current approved reimbursement rate, allowable costs, and the additional reimbursable costs sought through the appeal;
 - ii) A clear, concise statement of the basis for the appeal;
 - iii) A detailed statement of financial, statistical, and related information in support of the appeal, indicating the relationship between the additional reimbursable costs as submitted and the circumstances creating the need for increased reimbursement;
 - iv) A citation to any mandated or contractual requirement pertinent to the appeal; and
 - v) A statement by the provider's chief executive officer or financial officer that the application of the rate appeal and information contained in the vendor's reports, schedules, budgets, books, and records submitted are true and accurate.
- C) Rate appeals may be considered for the following reasons:
- i) Mechanical or clerical errors committed by the provider in reporting historical expenses used in the calculation of allowable costs.
 - ii) Mechanical or clerical errors committed by the

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Department in auditing historical expenses as reported and/or in calculating reimbursement rates.

- iii) The Department and the provider have entered into a written agreement to amend, alter, or modify substantive programmatic or management procedures attendant to the delivery of services, which have a substantial impact upon the costs of service delivery.
 - iv) Substantial treatment service charges are required as a result of mandated regulatory charges.
 - v) Substantial changes in the physical plant are required as a result of mandated licensure requirements. In such instances, the provider must submit a plan of corrections for capital improvements approved by the licensing authority, along with the required cost information.
 - vi) State and/or Federal regulatory requirements have generated a substantial increase in allowable costs.
- D) The Department shall rule on all appeals within 120 calendar days of receipt of the appeal except that, if additional information is required from the facility, the period shall be extended until such time as the information is provided.
- E) Appeals shall be submitted to the Department's Bureau of Comprehensive Health Services, 3rd floor Bloom Building, 201 South Grand Avenue East, Springfield, Illinois 62763.
- 4) ~~PHGRS--that--guaranty--as--Healthy--Moms/Healthy--Kids--providers--as described--in--Section--140-924(a)(2)(A)--shall--receive--a--patient management--fee--as--described--in--Section--140-938(a)--in--addition to--the--reimbursement--described--in--subsection--(c)(1)--above--~~
- d) ~~Maternal and Child Health Healthy--Moms/Healthy--Kids--Managed-Care Clinics:~~
- ~~Payment shall be made in accordance with Section 140.930 140-464.~~

(Source: Emergency amendment at 19 Ill. Reg. **14833**, effective October 6, 1995, for a maximum of 150 days)

Section 140.464 Healthy Moms/Healthy Kids Managed Care Clinics (Repealed)

~~EMERGENCY~~

~~Payment--for--services--provided--by--Healthy--Moms/Healthy--Kids--managed-care clinics--as--described--in--Section--140-461(f)(1)--shall--be--as--follows:~~

a) ~~in--the--case--of--clinics--described--in--Sections--140-461(f)(1)(A) 140-461(f)(1)(B)--and--140-461(f)(1)(C)--payment--shall--be--in--accordance with--Section--140-930(a)(1)--except--for:~~

i) ~~Those--services--that--meet--the--definition--of--the--Hospital Ambulatory--Care--Program--as--described--in--89--Ill--Adm--Code 140-140(a)(3)--which--shall--be--reimbursed--in--accordance--with--89 Ill--Adm--Code--140-140(a)(3)--~~

2) ~~End--stage--renal--disease--treatment--(ESRD)--services--which--shall~~

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- be reimbursed in accordance with 09-111-Adm-Code-140-140(b)7 and
- 3) Those services provided by encounter rate hospitals, as described in 09-111-Adm-Code-140-140(c)7 which shall be reimbursed in accordance with 09-111-Adm-Code-140-140(c)7.
- b) In the case of clinics described in Section 140-140(f)7, payment shall be made as follows:
- 1) Reimbursement for Non-Assigned Clients--Covered services, as described in Section 140-462(e)7, provided to Healthy Moms/Healthy Kids program clients that have not been assigned to the CPAGE by the Department or its agent shall be reimbursed in accordance with subsection (a) above.
- 2) Reimbursement for Assigned Clients
- Except as indicated in subsections (b)(3) through (b)(5) below, covered services as described in Section 140-462(e)7 shall be reimbursed on an all-inclusive encounter basis when rendered by the certified center or other certified CPAGE site owned and operated by a common corporate entity, to those Healthy Moms/Healthy Kids clients assigned by the Department or its agent to that particular CPAGE as the client's primary care practitioner. The all-inclusive encounter rate shall be calculated as follows:
- A) Newly certified CPAGEs shall be paid an encounter rate for covered services as described in Section 140-462(e)7 except as indicated in subsections (b)(3) through (b)(5) below rendered by the CPAGE on or after the effective date of the CPAGE's Health Moms/Healthy Kids provider agreement with the Department.
- 3) Ambulatory surgery and diagnostic procedures currently included in the Department's Hospital Ambulatory Care list, as described in 09-111-Adm-Code-140-140(f)7, shall be reimbursed in accordance with 09-111-Adm-Code-140-140(a)7.
- 4) Costs associated with pharmacy services provided by the CPAGE with the exception of those pharmacy service costs incurred in conjunction with the procedures described in subsection (b)(3) above, shall be reimbursed in accordance with the Department's established fee schedule for covered drug items.
- 5) In addition to the reimbursement described in subsection (b)(1) through (b)(4) above, CPAGEs shall receive a patient management fee as described in Section 140-930(b).
- 6) Payment shall be limited to not more than one encounter per client per day.

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- 7) CPAGE encounter rates shall be annually established effective each October 1 and will be entirely prospective. No year-end reconciliation will occur.

(Source: Emergency repealer at 19 Ill. Reg. 14893, effective October 6, 1995, for a maximum of 150 days)

Section 140.485 Healthy Kids Program EMERGENCY

a) Program Description

1) The Healthy Kids Program is the Early and Periodic Screening, Diagnosis and Treatment Program mandated by the Social Security Act (see 42 U.S.C. 1396a(43), 1396d(4)(B)(Supp. 1987)). The goals of the program are to:

- A) improve the health status of Medicaid-eligible children ages birth through 20 years through the provision of preventive medical care and early diagnosis and treatment of conditions threatening the child's health; and
- B) reduce the long term costs of medical care to eligible children.
- 2) The Department strives to achieve these goals by offering the following services at no cost to an eligible child, except as may be limited by a spend down requirement:
- A) periodic and interperiodic health, vision, hearing and dental screening services to meet the health care needs of children (see Section 140.488(a) through (d));
- B) immunizations against childhood diseases (see Section 140.488(e));
- C) diagnostic laboratory procedures as described in Section 140.488(f);
- D) further diagnosis or treatment necessary to correct or ameliorate defects and physical or mental illnesses or conditions which are discovered or determined to have increased in severity by a provider as the result of a periodic or interperiodic health, vision, hearing or dental screening;
- E) referral for dental care beginning at age two; and
- F) assistance in locating a provider, scheduling an appointment and in arranging transportation to and from the source of medical care.
- 3) The Department also strives to protect each eligible person's right to freedom of choice regarding participation and selection of a health care provider and the right to continuity of care.
- b) Eligibility. Services are available to those persons listed in Section 140.3, except that such persons must be under 21 years of age at the time of receiving such services.
- c) Provider Participation. Providers of Healthy Kids services must be

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duly licensed or certified according to applicable Federal or State law or rule and be enrolled in the Illinois Medical Assistance Program to provide one or more Healthy Kids Program services as authorized in Title XIX of the Social Security Act and the Illinois Medical Assistance Program State Plan (as set forth in 140.11 thru 140.835).

d) Program Activities and Services

- 1) Informing Clients. The Department shall inform eligible persons in writing about the benefits of preventive health care, the services which are available, and procedures by which eligible persons may request and receive assistance in identifying an enrolled provider, scheduling an appointment or arranging transportation to and from the source of medical care. Effective July 1, 1990, the Department shall also notify Medicaid-eligible pregnant women, postpartum women during the six months after termination of pregnancy, women up to one year postpartum who are breastfeeding their infants or children below the age of five years of their potential eligibility for receiving services through the Special Supplemental Food Program for Women, Infants and Children which is administered by the Illinois Department of Public Health (IDPH). The informing of eligible persons shall be done as described in the Timeliness Standards contained in Section 140.487.

- 2) Periodic Medical Screenings. The Department will pay for a series of periodic medical screenings scheduled from a person's birth through age 20. The Periodicity Schedule of screenings is contained in Section 140.488. The Department will pay for additional health screenings when necessary for:

- A) enrollment in school; or
- B) enrollment in a licensed day care program, including Headstart; or
- C) placement in a licensed child welfare facility, including a foster home, group home or child care institution; or
- D) attendance at a camping program; or
- E) participation in an organized athletic program; or
- F) enrollment in an early childhood education program recognized by the Illinois State Board of Education; or
- G) participation in a Women, Infant and Children (WIC) program; or
- H) is requested by a child's parent, guardian or custodian, or is determined to be necessary by social services, developmental, health, or educational personnel.

3) Dental Screenings

- A) Dental services shall include services for relief of pain and infections, restoration of teeth, and maintenance of dental health, including instruction in self care oral hygiene procedures.
- B) Eligible persons shall be referred for dental screenings beginning at age two if the person is not in the continuing

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care of an enrolled dental provider, except that a child younger than age two years may be referred for dental services when any health screening indicates the need for dental services.

- C) The periodicity schedule for dental screening services is contained in Section 140.488. The Department will pay for one dental screening per age period unless a second screening is medically necessary.

4) Vision Screening

- A) The Department will pay for vision screening services, and diagnosis and treatment for defects in vision, including glasses.
- B) The periodicity schedule for vision screenings is contained in Section 140.488. The Department will pay for one vision screening per age period, except when a second screening is determined to be medically necessary.
- 5) Hearing Screening. The Department will pay for hearing screenings and diagnosis and treatment for defects in hearing, including hearing aids. The periodicity schedule for hearing screenings is contained in Section 140.488. The Department will pay for one hearing screening per age period, except when a second screening is determined to be medically necessary.
- 6) Immunizations. The Department will pay for the immunization of eligible children against childhood diseases. The list of covered immunizations is contained in Section 140.488(b).

7) Diagnostic Procedures

- A) Lead Screening
 - i) The Department requires that lead screening shall be performed in compliance with the "Lead Poisoning Prevention Act, Public Act 87-175", as amended, effective January 1, 1992. Children between the ages of six months to six years should be screened for lead poisoning at priority intervals. Screenings and medical follow up shall be performed in accordance with the "Guidelines for the Detection and Management of Lead Poisoning for Physicians and Health Care Providers", published by the Illinois Department of Public Health. These guidelines recommend that those children at highest risk be screened on a regular basis. High risk environmental situations include housing built before 1978, housing which is being renovated or remodeled, or which is in deteriorating condition. Children six years and older shall also be screened, where medically indicated or appropriate.
 - ii) The Department will pay for lead screening as indicated in subsection (d)(7)(A)(i) above or as required for admission by a day care center, day care home, preschool, nursery school, kindergarten, or

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other child care facility or educational facility licensed by the State.

- iii) The Department will pay for epidemiological study of the child's living environment when the child has been diagnosed as having an elevated blood lead level for the purpose of identifying the source of lead exposure.

B) The Department will pay for the administration of all other medically necessary diagnostic procedures performed during or as the result of medical screenings.

- 8) Treatment. The Department shall pay for necessary medical care (see Section 140.2), diagnostic services, treatment or other measures medically necessary (e.g., medical equipment and supplies) to correct or ameliorate defects, and physical and mental illnesses and conditions which are discovered or determined to have increased in severity by medical, vision, hearing or dental screening services.

- 9) Assistance Services. The Department shall, upon request, provide assistance to eligible children and their parent, guardian or custodian to locate a provider, schedule an appointment or arrange transportation to and from the source of medical care.

- 10) Timeliness Standards. The Timeliness Standards in Section 140.487 will govern the completion of required activities and services.

e) Reimbursement to Providers

- 1) Fee-for-service. Provider's enrolled in the Maternal and Child Health Program Healthy-Moms/Healthy-Kids-program, as described in Subpart G, will receive enhanced rates for certain services, as described in Section 140.930(a)(1). Payment will be made at the provider's usual and customary charges or the established Department rate(s) (see Section 140.400), whichever is less, for providers not enrolled in the Maternal and Child Health Program Healthy-Moms/Healthy-Kids-programs. Reimbursement for the administration of immunizations to an eligible person will be made at rates established by the Department. The provider will receive replacement vaccines as explained in subsection (e)(3) below.

- 2) Claims. Claims for reimbursement shall be submitted on the form and in a manner specified by the Department.

- 3) Vaccine Replacement Program. When a provider administers an immunization to an eligible child, the vaccine(s) are replaced to the provider through the Vaccine Replacement Program which is administered jointly by the Department and the IDPH. Providers must be annually certified for participation in the Vaccine Replacement Program by IDPH before receiving replacement vaccines. Information on the Vaccine Replacement Program and certification procedures (set forth at 42 CFR 51b), may be obtained by contacting:

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Immunization Vaccine Replacement Program
Illinois Department of Public Health
525 West Jefferson Street
Springfield, Illinois 62761

- f) Limitations on Services. Services under the Healthy Kids Program shall only be available to persons in the age groups from birth through age 20. Coverage of and payments for services shall be consistent with the requirements of Section 1905 of the Social Security Act (42 U.S.C. 1396d) as it relates to the Early and Periodic Screening, Diagnosis and Treatment Program.

- g) Record Requirements. The provider shall comply with record requirements as set forth in Section 140.28.

(Source: Emergency amendment at 19 Ill. Reg. **14893**, effective October 6, 1995, for a maximum of 150 days)

SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM REIMBURSEMENT--FOR-NURSING

66ST-FOR-SERIAL-PRG-PRG-PRG-PRG

Section 140.920 General Description

EMERGENCY

- a) The Maternal and Child Health Healthy-Moms/Healthy-Kids Program is a primary health care program coupled with case management services for Medicaid enrolled pregnant women and children. The program is designed to ensure access to quality health care services statewide by linking-pregnant-women-and-children-through-age-20-with-a-primary-care provider-or-an-HMO-who-will-be-responsible-for-providing-primary-care and-arranging--or--in-some-areas-of-the-State-authorizing-specialty care--Although the Healthy-Moms/Healthy-Kids-Program-is-available-on a--statewide-basis--certain-components-of-the-program-as-described-in subsection-(b)(1)-below--will--not--initially--be--implemented--on--a statewide-basis.

b) Program-Components

1) Managed-Care-Component

The--Healthy--Moms/Healthy--Kids--Program--shall--include--a--managed care-component--as-described-in-Section-140-922(b)--which--shall be--in--place--for--clients--who--reside--in--a--zip-code--served--by--a local-public-aid-office--located--in--the--City--of--Chicago--The managed-care-component--requires--all--pregnant-women--and--children who--fall--in--certain--categories--of--Medical--Assistance--as described--in--Section-140-926(a)(1)--to--choose--a--Primary-Care Provider--(PCP)--from--the--listing--of--provider--types--described--in Section-140-922(b)(3)--Under--the--managed-care-component--the selected-PCP--is--responsible--for--locating--coordinating--and monitoring--all--health--care--and--utilization--of--non-emergency services--in--accordance--with--Section-140-922(b)(3)--

b)2) Case Management Component

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The Maternal and Child Health Healthy-Moms/Healthy-Kids Program shall also include a case management component which shall be in place statewide. Under the case management component, pregnant women and children under the age of 12 months six will be provided with case management services, as described in Section 140.992(c), by a community-based case management agency that will be responsible for assisting the client in accessing health care and support services necessary to comply with their physicians' recommendations. Such case management services will be provided through age five years for DCFS wards.

3) Enhanced-Reimbursement-Component

c) The Maternal and Child Health Healthy-Moms/Healthy-Kids Program is designed to increase provider participation through special incentives for providers for certain services provided to pregnant women and children under age 21. These include increased payment rates for selected services, as described in Section 140.930, and expedited payment. To participate in the program, providers must meet specific participation requirements, as described in Section 140.924, and sign a Maternal and Child Health Healthy-Moms/Healthy-Kids provider agreement, in addition to being enrolled as a Medicaid Provider. Under the Maternal and Child Health Program the Department agrees to:

- 1) Pay enhanced rates for prenatal risk assessment, which includes substance abuse information,
 - 2) Pay enhanced rates for delivery services,
 - 3) Pay enhanced rates for primary care office visits and screening services provided to children,
 - 4) Provide prospective payment or expedited processing of claims for physicians who meet established criteria and request special processing,
 - 5) Upon request, furnish client eligibility and profiles of prior services reimbursed by the Department,
 - 6) Facilitate access to medical care for clients in cooperation with the physician and case management entity.
- d) Those clinics which were enrolled under the Healthy Moms/Healthy Kids Program shall be deemed certified in the Maternal and Child Health Program.
- e) Those providers enrolled under the Healthy Moms/Healthy Kids program shall be deemed certified in the Maternal and Child Health Program.

(Source: Emergency amendment at 19 Ill. Reg. **14833**, effective October 6, 1995, for a maximum of 150 days)

Section 140.922 Covered Services

EMERGENCY

- a) Medical Services
- All services covered under the Illinois Medical Assistance Program shall be available to recipients participating in the Maternal and

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Child Health Healthy-Moms/Healthy-Kids Program.

b) Primary-Care-Physician-Services

- 1) Geographic areas covered by the Managed-Care-Component in areas covered by the managed-care component as described in Section 140.928(f)(1)---clients will be required to select a Primary-Care-Provider (PCP)---in these areas, Medicaid-enrolled pregnant women and children under age 21 must choose a single primary-care-provider (PCP)---this may be a regular doctor, a Department-approved clinic or a Health Maintenance Organization (HMO)---as described in subsection (b)(3)---below---for those choosing a physician or clinic all primary health care will be provided by the PCP---the PCP may authorize another provider to render services outside the PCP's scope of practice---clients eligible for case management services, as described in subsection (c) below, will be assigned to the case management agency designated to work with their chosen PCP.
- 2) Clients will be enrolled with their chosen physician or clinic provider indefinitely with an option to make a different choice every six months---Providers will receive a monthly patient management fee for each client enrolled with them---Physicians may participate independently or as part of an approved clinic through the managed-care component---clients are encouraged to establish a continuing relationship with a single provider.
- 3) The PCP is responsible for locating, coordinating and monitoring all health care and utilization of non-emergency services---the PCP must provide primary care directly and must authorize all referrals to specialists---as cited in Section 140.932---participants may select a PCP from one of the following provider types:

- A) Primary-care physicians who meet certain program criteria as cited in Section 140.924(f)(1);
 - B) Federally-Qualified-Health-Centers (FQHCs) as described in Section 140.461(d)---that meet the additional requirements described in Section 140.924(a)(2)(A);
 - C) Encounter-Rate-Clinics as described in Section 140.461(b) that meet the additional requirements described in Section 140.924(a)(2)(B); and
 - D) Healthy-Moms/Healthy-Kids-Managed-Care-Clinics as described in Section 140.461(f).
- 4) Clients living outside an area with a managed-care component will not be enrolled with a single provider as described above. Unless enrolled with a Health Maintenance Organization (HMO) Medicaid clients will not be required to receive primary health care services from a single provider but will be encouraged to do so---Providers will refer clients for needed specialty care but will not be required to authorize those services---Providers in areas without the managed-care component will not receive the monthly patient management fee but will receive the same enhanced

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rates-provided-to-those-who-serve-in-areas-where-the-Managed-Care Program-has-been-implemented:

b) Case Management Services

Case management for Medicaid recipients is defined as a function necessary for the proper and efficient operation of the Medicaid State Plan. **Case-management-services-will-be-provided-to-pregnant-women-and children-under-six-statewide.** Services include but are not limited to:

- 1) Coordination of Medicaid covered services;
- 2) Arranging for transportation to and from a source of medical care;
- 3) Client education regarding Medicaid covered services, the benefits of preventive medical and dental care, and how to efficiently utilize the Medicaid system and access services;
- 4) Prenatal education or health education;
- 5) Referral for services such as Women, Infants and Children (WIC);
- 6) Assistance to ensure client compliance with services prescribed/recommended by the Maternal and Child Health Provider; **PEP** (substance abuse treatment, Early Intervention services, psychiatric services/mental health, specialty care); and
- 7) Outreach and case finding.

(Source: Emergency amendment at 19 Ill. Reg. **14893**, effective October 6, 1995, for a maximum of 150 days)

Section 140.924 Maternal and Child Health Provider Participation Requirements

EMERGENCY

a) Primary Care Providers

1) Basic Requirements

Maternal and Child Health primary care providers may include Physicians, Federally Qualified Health Centers (FQHCs), hospital clinics per Section 140.461(f) and encounter rate clinics per Section 140.461(b). Maternal and Child Health **Healthy Moms/Healthy-Kids** providers shall meet the qualifications (see Section 140.12) as are applicable for all medical providers under the Illinois Medical Assistance Program and shall:

- A) maintain hospital admitting privileges;
- B) maintain delivery privileges if providing care to pregnant women;
- C) be enrolled and in good standing with the Medical Assistance Program; and
- D) complete a Maternal and Child Health Primary Care Provider Agreement, or have been enrolled as a provider under the **Healthy Moms/Healthy Kids Program**, in which they agree to:
 - i) provide periodic health screening (EPSDT), including age appropriate immunizations, and primary pediatric care as needed for children served in their practice,

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consistent with guidelines published by the American Academy of Pediatrics or American Academy of Family Physicians;

- ii) provide obstetrical care and delivery services as appropriate for pregnant women served through their practice, consistent with guidelines published by the American College of Obstetricians and Gynecologists or the American Academy of Family Physicians;
- iii) provide risk assessments for pregnant women and/or children;
- iv) provide medical care coordination, including arranging for diagnostic consultation and specialty care;
- v) communicate with the case management entity;
- vi) maintain 24-hour telephone coverage for assessment and consultation; and
- vii) provide equal access to quality medical care for assigned clients.

AGENCY NOTE: FQHCs are federally exempt from subsections (a)(1)(A) and (B) above.

Special Requirements

2) In addition to the basic requirements described in subsection (a)(1) above, the following Maternal and Child Health **Healthy Moms/Healthy-Kids** providers shall be required to meet additional requirements as specified below:

A) **Federally-Qualified-Health-Centers-(FQHCs)-shall-be-required to:**

- i) **Meet-the-qualifications-for-a-FQHC--as-described-in Section-140-461(d);**
- ii) **Provide-managed-care-to-clients--as-described-in Section-140-992(b)(1)-and**
- iii) **Provide-specific-Healthy-Moms/Healthy-Kids-client assignment-capacity-proposals-to-the-Department--and agree-to-accept-site-specific-entitlement-and-primary care-practitioner-responsibility-for-a-specified minimum-number-of-clients-assigned-by-the-Department or-its-agent-in-accordance-with-the-terms-of-the Department's-Healthy-Moms/Healthy-Kids-Manual--and provider-agreement-for-FQHCs.**

A)B) Encounter Rate Clinics shall be required to meet the following additional requirements:

- i) Meet the qualifications for an encounter rate clinic, as described in Section 140.461(b) **140-461(d);** and
- ii) Be owned, operated, managed, or staffed by a hospital that also operates a Maternal and Child Health **Healthy Moms/Healthy-Kids-managed-care** clinic, as described in Section 140.461(f), or be located in a county with a population exceeding 3,000,000 that is part of an organized clinic system consisting of 15 or more

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individual practice locations, of which at least 12 are Federally Qualified Health Centers, as defined in Section 140.461(d).

- iii) Provide managed care to clients, as described in Section 140.922(b)(1), and
- iv) Provide specific Health--Moms/Healthy--Kids--client assignment capacity proposals to the Department and agree to accept site specific enrollment and primary care practitioner responsibility for a specified minimum number of clients assigned by the Department or its agent in accordance with the terms of the Department's Health--Moms/Healthy--Kids--Manual and provider agreement for encounter rate clinics.

- e) Healthy--Moms/Healthy--Kids--Managed--Care--Clinics shall be required to meet the applicable requirements described in Section 140.461(f).

3) The Department will consider requests from physicians who are unable to meet the hospital admitting privileges criteria for enrollment in the Maternal and Child Health Healthy--Moms/Healthy Kids Program if the physician has executed a formal agreement with another physician to accept referrals for hospital admissions. Requests will also be considered from physicians who do not have delivery privileges but wish to provide obstetrical care. The request will be reviewed by members of the State Medical Advisory Committee and a recommendation made by that body as to whether the physician should be enrolled as a PCP into the Program. At the discretion of the Committee, the requesting physician may be asked to appear for an interview and/or an on-site visit may be made by either a member of the Committee or a Department assigned physician consultant. For consideration to be given, the requesting physician must submit the following information and supporting documentation in a format specified by the Department which provides the following:

- A) Complete name, mailing address, Illinois practice license number and Medicaid provider number, if any;
- B) Declared practice specialty;
- C) Listing of all practice locations;
- D) Name and location of hospitals applied to for admitting privileges;
- E) Status of each request, i.e., pending or closed (if closed, a reason must be given by the hospital for not granting privileges);
- F) If application has never been made, a statement explaining why;
- G) Name of physician with whom a formal agreement has been effected;
- H) Illinois license number of Medicaid enrolled physician with hospital admitting privileges and name of hospitals where

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admitting privileges are in effect; and

I) Copy of formal agreement.

- 4) The request is to be dated by the provider and forwarded to the Illinois Department of Public Aid, Provider Participation Unit, P.O. Box 19114, Springfield, Illinois 62794-9114.

- b) Case Management Providers
- Case management providers' qualifications shall be in accordance with 77 Ill. Adm. Code 630.Subpart A. Case management will be provided to ensure access to medical care and better compliance with medical recommendations.

(Source: Emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days)

Section 140.926 Client Eligibility (Repealed)

EMERGENCY

- a) Geographic Areas Covered by the Managed-Care-Component
- i) Clients Eligible for Services

In the areas covered by the managed care component as described in Sections 140.928(a)(1) the Healthy--Moms/Healthy--Kids--Program is limited to pregnant women and children age 20 and under whether receiving cash grants or as recipients of medical assistance only included in those covered categories are:

- A) APBE--including cases which were cancelled due to earned income which qualify for up to 12 months of Medicaid coverage following cancellation;

- B) APBE--MANG--Medical Assistance--no grant for pregnant women and children through age 20 with countable family income no greater than the MANG income standard;

- C) MANG--(P)--Medical Assistance--no grant for pregnant women and children age five and under meeting the Omnibus Reconciliation Act (OBRA) requirements with countable family income to 133% of the federal poverty level;

- D) MANG--(P)--Medical Assistance--no grant for children older than five and born after October 1, 1983 who meet the Omnibus Reconciliation Act (OBRA) requirements and have countable family income to 100% of the federal poverty level;

- E) AABD--blind or disabled pregnant women or children through the age of 20 who do not reside in long term care facilities;

- F) AABD--Medical Assistance--no grant for pregnant women and children through age 20 with countable family income no greater than the MANG income standard who do not reside in long term care facilities;

- G) General Assistance--children through the age of 17

- H) Medicaid Presumptively Eligible women (MBE) and

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- 1) Children who are wards of BPS in foster care or other eligible substitute care settings.
- 2) Clients Exempt from Participation
- Exempt from participation in the Healthy Moms/Healthy Kids program will be those categorically eligible recipients who:
- A) are residing in a nursing facility or IEP/MR?
- B) have an eligibility that is only retroactive
- C) elect to enroll in an HMO?
- D) are spend down cases excluding MANG(P)? or
- E) are group care cases model waiver children and BMHBB clients in residential facilities.
- b) Geographic Areas Not Covered by the Managed Care Component
- In areas not covered by the managed care component all clients regardless of eligibility category who do not reside in a long term nursing facility or IEP/MR and who meet the following requirements are covered under the Healthy Moms/Healthy Kids program:
- 1) Pregnant women?
- 2) Children under age 21.

(Source: Emergency repealer at 19 Ill. Reg. **14833**, effective October 6, 1995, for a maximum of 150 days.)

Section 140.928 Client Enrollment and Program Components (Repealed)

EMERGENCY

the Healthy Moms/Healthy Kids Program enrollment and program components are described below:

- a) Areas Covered by the Managed Care Component
- 1) Medicaid-enrolled pregnant women and children under age 21 who are served by a local Public Aid Office located in the City of Chicago must participate in the Healthy Moms/Healthy Kids managed care component by choosing a primary care provider for each qualified family member or by enrolling with a Health Maintenance Organization (HMO)?
- 2) Enrollment and Selection
- A) The enrollment and selection process for new applicants takes place at the local Public Aid Office. At the conclusion of the screening interview potential eligibles will be referred to a client education representative. During this face-to-face contact the client will be presented with a description of the managed care options and asked to choose a PEP. The client representative will record the selection when an individual physician or clinic is chosen or refer the client to an HMO representative when that is designated as the managed care choice. If the recipient is unable to choose a provider or the recipient's choice is not a suitable provider a random choice of a Healthy Mom/Healthy Kids PEP or HMO will be made on the

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- individuals behalf by the Department's agent. The assignment will be based on the recipient's age and sex. However is known of the recipient's medical condition and usual source of care and the appropriate PEPs in the recipient's service area who have open slots for participants. The recipient and the chosen PEP will be informed of the intended assignment. Providers of obstetric care must agree to accept the assignment of a pregnant woman. However the assignment cannot be refused on grounds that would be considered discriminatory.
- B) The assignment will take effect when so indicated on the next regularly issued Medicaid card.
- C) Once a recipient has been enrolled in the Healthy Moms/Healthy Kids program the individual will remain in the program as long as he or she retains Medicaid eligibility. Unless the participant is disenrolled when the waiver's eligibility requirements are no longer met, such as when the recipient is institutionalized in a nursing facility or IEP/MR or moves to a nonparticipating geographic area.
- 3) All primary health care is to be provided by the primary care provider (PEP). Services outside the provider's scope of practice will be arranged and authorized by the primary care provider. In order for the non-PEP to receive enhanced rates for the services described in Section 140.9ABH-M when providing services outside the PEP's scope of service the services must be authorized as described in Section 140.932(f).
- 4) Clients will be enrolled with an option to change without cause at six month intervals or with cause at any time. Cause shall exist in the following circumstances:
- A) The client moves but the PEP continues to reside in the waiver area?
- B) The PEP moves but the client continues to reside in the waiver area?
- C) The client believes that the client's medical needs can be managed more effectively by a different provider?
- D) The relationship between the client and the primary care provider is not mutually acceptable?
- E) The primary care provider is inaccessible to the client or does not make 24 hour per day seven days per week coverage available to the client?
- F) The primary care provider and the client have a language barrier or other structural impediment to service.
- G) The client alleges inappropriate behavior on the part of the primary care provider or
- H) The client was randomly assigned pursuant to Section 140.928(a)(2)(A).
- 5) The Department has contracted with an independent organization to assist in the operational function of this component of the

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Health/Moms/Healthy-Kids-Program---The--independent--contractor will--be--responsible--for--providing--program--assistants--at--each local--Public-Aid-office--located--in--Chicago--to--educate--clients about--the--health--delivery--system--options--available--to--them--under the--Program--and--enroll--them--with--their--chosen--primary--care provider--

- 6) The--independent--organization--will--also--assist--providers--in locating--needed--specialty--care--administering--a--network--of organizations--performing--supportive--case--management--operating--a data--system--for--client--tracking--purposes--and--operating--a--hotline to--assist--providers--in--obtaining--needed--information--

- 7) The--independent--organization--will--also--authorize--payment--to--the PEP--when--the--PEP--refers--the--client--to--another--provider--for specialty--care--

- b) Areas--Not--covered--by--the--Managed--Care--Component
Clients--will--not--be--enrolled--with--providers--as--described--in--subsection (a)--above--Unless--enrolled--with--a--Health--Maintenance--Organization, downstate--clients--will--not--be--required--to--receive--primary--health--care services--from--a--single--provider--but--will--be--encouraged--to--do--so--for Health/Moms/Healthy-Kids-providers--serving--clients--who--live--outside Chicago--will--be--required--to--provide--or--refer--their--clients--for--needed specialty--care--but--will--not--be--required--to--authorize--those--services--

(Source: Emergency repealer at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days)

Section 140.930 Reimbursement

EMERGENCY

- a) Reimbursement Rates for Maternal and Child Health Health/Moms/Healthy Kids Providers

- 1) Participating providers described in Section 140.922(b)(3)(A) that meet the criteria specified in 140.924(a)(1) will receive enhanced rates for certain medical services specified in Table M of this Part. The enhanced rates are effective for services provided on or after April 1, 1993.

- 2) Participating FQHC's, as described in Sections 140.922(b)(3)(B) and 140.461(d), that meet the criteria specified in 140.924(a)(2)(A), shall be reimbursed in accordance with Section 140.463(c) for covered services provided to a Maternal and Child Health Health/Moms/Healthy-Kids Program participant, as described in Section 140.922.

- 3) Participating encounter rate clinics, as described in Sections 140.922(b)(3)(C) and 140.461(b)(7) that meet the criteria specified in 140.924(a)(2)(B) shall be reimbursed in accordance with Section 140.463(b) for covered services provided to a Maternal and Child Health Health/Moms/Healthy-Kids Program participant, as described in Section 140.922.

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- 4) Participating Maternal and Child Health Health/Moms/Healthy-Kids managed-care clinics, as described in Sections 140.924(b)(3)(D) and 140.461(f), will receive enhanced rates for certain medical services specified in Table M of this Part. The enhanced rates are effective for services provided on or after April 1, 1993 shall--be--reimbursed--in--accordance--with--Section--140.464--for covered--services--provided--to--a--Health/Moms/Healthy-Kids--program participant--as--described--in--Section--140.462(e).

- b) Patient Management Fee

Providers who have accepted primary care responsibilities for foster children residing in Cook County who are under the guardianship of the Department of Children and Family Services will receive a monthly patient management fee for each client enrolled with them. Participating providers who serve Medicaid-enrolled pregnant women and children under age 21 who are covered under the managed care component will receive a monthly patient management fee for each client enrolled with them.

- c) Case Management Services

Providers of care management services will receive monthly payments. The payments will be prorated based upon an annual amount per case. A higher rate will be paid to the case management agency for case managing a family that contains a pregnant woman or child under age one.

(Source: Emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days)

Section 140.932 Payment Authorization for Referrals (Repealed)

EMERGENCY

- a) In the areas covered by the managed care component the PEP is required to provide primary care directly and must authorize referrals when the PEP determines that the client requires medical care outside his scope of practice. The PEP is required to make referral appointments. The PEP must notify the independent contractor that payment is authorized. Payments will be made to providers other than the PEP when a valid authorization number is reported on the claim form. Physicians practicing the same specialty in a single group can receive payment for services rendered to non-assigned clients by identifying the client as PEP as the referring practitioner by name and Medicaid provider number on the claim for payment.

- b) The following services DO NOT require a payment authorization number for billing purposes:

- 1) Hospital emergency room services
- 2) Coverage by another physician as part of 24-hour-a-day seven days-a-week coverage
- 3) Family planning services
- 4) Preventive services for children including

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- A) hearing-screening?
 B) vision-screening?
 C) immunizations?-and
 D) lead-toxicity-screening-and-epidemiological-survey?
 E) All-diagnostic-and-clinical-tests-that-are-medically-necessary?
 F) Pharmacy-services?-or
 G) Early-intervention-services-for-young-children?-such-as:
 A) speech-therapy?
 B) Physical-therapy?-or
 C) occupational-therapy?

(Source: Emergency repealer at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT
 EQUITY (ICARE) PROGRAM

Section 140. TABLE M Enhanced Rates for Maternal and Child Health Healthy
 Moms/Healthy-Kids Provider Services

- a) In accordance with Sections 140.464 and 140.930(a), certain providers who serve women will receive enhanced reimbursement rates for the following services:

CODE	DESCRIPTION
W7359	Prenatal risk assessment
<u>59409</u>	<u>Vaginal delivery</u>
59410	Vaginal delivery
<u>59500</u>	<u>C-section delivery</u>
<u>59514</u>	<u>C-section delivery</u>
59515	C-section delivery

- b) In accordance with Sections 140.464 and 140.930(a), certain providers who serve children under age 21 will receive enhanced reimbursement rates for the following services:

CODE	DESCRIPTION
W7018	Healthy Kids screening-Chicago/Downstate
W7360	Risk assessment, child referred for mental health assessment/services
W7361	Risk assessment, for mental health services, child, no referral
CODE	DESCRIPTION
W7362	Risk assessment, child referred for substance abuse assessment/treatment
W7363	Risk assessment for substance abuse, child, no referral
99201	Office visit - new patient - brief
99202	Office visit - new patient - limited

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

99203	Office visit - new patient - intermediate
99204	Office visit - new patient - extended
99205	Office visit - new patient - comprehensive
CODE	DESCRIPTION
99211	Office visit - established patient - brief
99212	Office visit - established patient - limited
99213	Office visit - established patient - intermediate
99214	Office visit - established patient - extended
99215	Office visit - established patient - comprehensive

c) All other visits and services billed under valid CPT-4 procedure codes will be reimbursed at January 1, 1993, rates.

(Source: Emergency amendment at 19 Ill. Reg. 14893, effective October 6, 1995, for a maximum of 150 days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Voter Registration for WIC Applicants and Participants
- 2) Code Citation: 77 Ill. Adm. Code 670
- 3) Section Numbers: Emergency Action:
670.10 New Section
670.20 New Section
- 4) Statutory Authority: Implemented and authorized by the National Voter Registration Act of 1993 (P.L. 103-31).
- 5) Effective Date of Emergency Rules: October 10, 1995
- 6) If this Emergency Rule is to Expire Before the End of the 150-Day Period, Please Specify the Date on Which it is to Expire: Not Applicable
- 7) Date Filed in Agency's Principal Office: October 10, 1995
- 8) Reason for Emergency: These rules implement the National Voter Registration Act, which requires that all women applicants and participants of the WIC Local Agencies shall be informed of their rights concerning the application for voter registration and shall be given an opportunity to apply to register to vote when applying for WIC services.
- 9) A Complete Description of the Subjects and Issues Involved: When an applicant/participant applies for WIC services or changes address at a Local WIC Agency contracted with by the Department, the Local WIC Agency staff shall inform the applicant/participant of her rights to execute or decline to execute a voter registration application. They will provide the applicant/participant with a form that asks if she would like to register to vote and contains boxes which can be checked to indicate whether the applicant would like to register to vote. If they choose to register, the Local WIC Agency staff will provide the applicant/participant with a voter registration application form supplied by the State Board of Elections.
- 10) Are There Any Proposed Amendments Pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The Department and Local WIC Agencies will incur additional expenses due to the enactment of this rule. The Department will incur the expenses for the printing of the forms and providing the agencies with envelopes to mail in the registration forms. The Local Agencies will incur the postage for mailing these forms to the various elections offices and the cost for additional staff hours in applicant/participant assistance and completing all of the forms.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY RULES

- 12) Information and Questions Regarding these Emergency Rules shall be directed to:

Gail M. DeVito
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-6187

The full text of the Emergency Rules begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY RULES

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER i: MATERNAL AND CHILD HEALTH

PART 670

VOTER REGISTRATION FOR WIC APPLICANTS AND PARTICIPANTS

Section

670.10 Definitions

EMERGENCY

670.20 Voter Registration for WIC Applicants and Participants

EMERGENCY

AUTHORITY: Implemented and authorized by the National Voter Registration Act of 1993 (P.L. 103-31).

14891

SOURCE: Emergency rules adopted at 19 Ill. Reg. _____, effective October 10, 1995 for a maximum of 150 days.

Section 670.10 Definitions

EMERGENCY

"Applicant" or "Service Applicant" means any woman who requests and obtains WIC services.

"Participant" means any woman who has been certified or approved for the WIC Program.

"Local Agency" means an entity that provides WIC services through a grant agreement with the Department.

"Declination Forms" means the Voter Registration Information Form on which the individual has indicated whether she accepts or declines the opportunity to apply to register to vote.

"Department" means the Illinois Department of Public Health.

"WIC Services" means services provided under the United States Department of Agriculture Special Supplemental Nutrition Program for Women, Infants and Children, referred to hereinafter as the WIC Program.

Section 670.20 Voter Registration for WIC Applicants and Participants

EMERGENCY

In accordance with the National Voter Registration Act of 1993 (P.L. 103-31), all women applicants and participants of the WIC Local Agencies shall be informed of their rights concerning the application for voter registration and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY RULES

shall be given an opportunity to apply to register to vote when applying for services.

- a) Procedures for Explanation of Rights and Presentation of Application
- 1) When an applicant/participant applies for WIC services or changes address at a Local Agency contracted with by the Department, the Local Agency staff shall:
 - A) Inform the applicant/participant of her rights to execute or decline to execute a voter registration application, as outlined in the State Board of Election's rule at 26 Ill. Adm. Code 215.
 - B) Provide the applicant/participant with a form that asks if she would like to register to vote and contains boxes which can be checked to indicate whether the applicant would like to register to vote.
 - C) Provide the applicant/participant with a voter registration application form supplied by the State Board of Elections unless the applicant/participant declines to apply to register to vote.

2) Staff shall not:

- A) Seek to influence an applicant's/participant's political preference or party registration;
- B) Display any such political preference or party allegiance;
- C) Make any statement to an applicant/participant or take any action the purpose or effect of which is to discourage the applicant/participant from registering to vote;
- D) Make any statement to an applicant/participant or take any action the purpose or effect of which is to lead the applicant/participant to believe that a decision to register or not to register has any bearing on the availability of services.

- 3) If the applicant/participant indicates either by checking the appropriate box or verbally (if she cannot write) that she wants to apply to register to vote, staff shall assist the applicant/participant in filling out the voter registration form. Each applicant/participant must be provided the same degree of assistance in completing the Voter Registration Application as is provided in the completion of WIC certification forms. The form shall then be mailed or hand delivered, in accordance with subsection (b), of this Section.

- 4) If the applicant/participant indicates by checking the appropriate box or verbally that she declines to apply to register, the staff shall ask her to sign the form and shall retain the form in accordance with subsection (c) of this Section.

- 5) If the applicant/participant does not check either box and does not communicate any choice, the staff shall treat the lack of choice as a declination, note that the applicant/participant did not indicate preference on the form and retain the form in

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY RULES

- 6) Staff shall offer the applicant/participant an opportunity to apply to register to vote, as set out in subsection (a)(1) above, upon each certification, at each recertification and if a change of address occurs.

- b) Procedures for registration. If an applicant/participant executes an application for voter registration, staff shall send it to the election authority of the location where the applicant resides within 10 days after the form is executed, pursuant to the State Board of Elections rule at 26 Ill. Adm. Code 215.

c) Declination Forms

- 1) The Local Agency shall retain the declination forms for two years after the execution of the form. The forms will be used for statistical reporting purposes only and the forms or the names of those persons who executed them shall not be released.

- 2) The declination forms shall be stored separately from the recipient's clinical records.

- d) WIC Local Agency Certification. WIC Local Agencies shall certify to the Department annually that they were in compliance with the requirements of this Section and the applicable federal and State laws.

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

- 1) Heading of the Part: Meat and Poultry Inspection Act
- 2) Code Citation: 8 Ill. Adm. Code 125
- 3) Section Numbers: Peremptory Action:
125.410 Amended
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute which requires this Peremptory Rulemaking: The Meat and Poultry Inspection Act [225 ILCS 650]; the Federal Poultry Inspection Act (21 U.S.C.A. 454); 60 FR 43356 (1995).
- 5) Statutory Authority: The Meat and Poultry Inspection Act [225 ILCS 650].
- 6) Effective Date: October 6, 1995
- 7) A Complete Description of the Subjects and Issues Involved:

In order to maintain an "equal to" status with the federal poultry products inspection program as required by the Federal Poultry Products Inspection Act and in compliance with Section 16 of the Meat and Poultry Inspection Act, changes in the federal rules relative to poultry products inspection are hereby adopted.

"The Food Safety and Inspection Service is amending the poultry products inspection regulations to permit the transportation of undenatured poultry feet from one federally inspected poultry establishment to another establishment for further processing before the feet are exported. Establishments are permitted to ship undenatured poultry feet to another establishment for export provided that the receiving establishment maintains records that identify the incoming undenatured poultry feet, their source, and their location at all times during processing. The receiving establishment is required to certify in writing that the poultry feet have not been, nor will be, commingled with other products intended for human consumption within the United States." (See August 21, 1995 issue of the Federal Register, page 43356, Section 381.190(b) as amended.)

- 8) Does this rulemaking contain an automatic repeal date? No

- 9) Date Filed in Agency's Principal Office: October 5, 1995

- 10) This rule is in compliance with Section 5.03 of the Illinois Administrative Procedure Act.

- 11) Are there any proposed amendments pending to this Part? No

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

- 12) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local governments.
- 13) Information and questions regarding this adopted amendment shall be directed to:

Debbie Wakefield
Illinois Department of Agriculture
State Fairgrounds
Springfield, Illinois 62794-9281
217/782-2172

The full text of the peremptory amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER c: MEAT AND POULTRY INSPECTION ACT

PART 125
MEAT AND POULTRY INSPECTION ACT

SUBPART A: GENERAL PROVISIONS FOR BOTH MEAT AND/OR
POULTRY INSPECTION

Section	
125.10	Definitions
125.20	Incorporation by Reference of Federal Rules
125.30	Application for License; Approval
125.40	Official Number
125.50	Inspections; Suspension or Revocation of License
125.60	Administrative Hearings; Appeals
125.70	Assignment and Authority of Program Employees
125.80	Schedule of Operations; Overtime
125.90	Official Marks of Inspection, Devices and Certificates
125.100	Records and Reports
125.110	Exemptions
125.120	Disposal of Dead Animals and Poultry
125.130	Reportable Animal and Poultry Diseases
125.140	Detention; Seizure; Condemnation

SUBPART B: MEAT INSPECTION

Section	
125.150	Livestock and Meat Products Entering Official Establishments
125.160	Equine and Equine Products
125.170	Facilities for Inspection
125.180	Sanitation
125.190	Ante-Mortem Inspection
125.200	Post-Mortem Inspection
125.210	Disposal of Diseased or Otherwise Adulterated Carcasses and Parts
125.220	Humane Slaughter of Animals
125.230	Handling and Disposal of Condemned or Other Inedible Products at Official Establishment
125.240	Rendering or Other Disposal of Carcasses and Parts Passed for Cooking
125.250	Marking Products and Their Containers
125.260	Labeling, Marking and Containers
125.270	Entry into Official Establishment; Reinspection and Preparation of Product
125.280	Meat Definitions and Standards of Identity or Composition
125.290	Transportation
125.295	Imported products
125.300	Special Services Relating to Meat and Other Products

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

125.305 Exotic Animal Inspection

SUBPART C: POULTRY INSPECTION

Section	
125.310	Application of Inspection
125.320	Facilities for Inspection
125.330	Sanitation
125.340	Operating Procedures
125.350	Ante-Mortem Inspection
125.360	Post-Mortem Inspection; Disposition of Carcasses and Parts
125.370	Handling and Disposal of Condemned or Inedible Products at Official Establishments
125.380	Labeling and Containers
125.390	Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements
125.400	Definitions and Standards of Identity or Composition
125.410	Transportation; Sale of Poultry or Poultry Products

AUTHORITY: Implementing and authorized by the Meat and Poultry Inspection Act [225 ILCS 650] and Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].

SOURCE: Adopted at 9 Ill. Reg. 1782, effective January 24, 1985; peremptory amendment at 9 Ill. Reg. 2337, effective January 28, 1985; peremptory amendment at 9 Ill. Reg. 2980, effective February 20, 1985; peremptory amendment at 9 Ill. Reg. 4856, effective April 1, 1985; peremptory amendment at 9 Ill. Reg. 9240, effective June 5, 1985; peremptory amendment at 9 Ill. Reg. 10102, effective June 13, 1985; peremptory amendment at 9 Ill. Reg. 11673, effective July 17, 1985; peremptory amendment at 9 Ill. Reg. 13748, effective August 23, 1985; peremptory amendment at 9 Ill. Reg. 15575, effective October 2, 1985; peremptory amendment at 9 Ill. Reg. 19759, effective December 5, 1985; peremptory amendment at 10 Ill. Reg. 447, effective December 23, 1985; peremptory amendment at 10 Ill. Reg. 1307, effective January 7, 1986; peremptory amendment at 10 Ill. Reg. 3318, effective January 24, 1986; peremptory amendment at 10 Ill. Reg. 3880, effective February 7, 1986; peremptory amendment at 10 Ill. Reg. 11478, effective June 25, 1986; peremptory amendment at 10 Ill. Reg. 14858, effective August 22, 1986; peremptory amendment at 10 Ill. Reg. 15305, effective September 10, 1986; peremptory amendment at 10 Ill. Reg. 16743, effective September 19, 1986; peremptory amendment at 10 Ill. Reg. 18203, effective October 15, 1986; peremptory amendment at 10 Ill. Reg. 19818, effective November 12, 1986; peremptory amendment at 11 Ill. Reg. 1696, effective January 5, 1987; peremptory amendment at 11 Ill. Reg. 2930, effective January 23, 1987; peremptory amendment at 11 Ill. Reg. 9645, effective April 29, 1987; peremptory amendment at 11 Ill. Reg. 10321, effective May 15, 1987; peremptory amendment at 11 Ill. Reg. 11184, effective June 5, 1987; peremptory amendment at 11 Ill. Reg. 14830, effective

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

August 25, 1987; peremptory amendment at 11 Ill. Reg. 18799, effective November 3, 1987; peremptory amendment at 11 Ill. Reg. 19805, effective November 19, 1987; peremptory amendment at 12 Ill. Reg. 2154, effective January 6, 1988; amended at 12 Ill. Reg. 3417, effective January 22, 1988; peremptory amendment at 12 Ill. Reg. 4879, effective February 25, 1988; peremptory amendment at 12 Ill. Reg. 6313, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 6819, effective March 29, 1988; peremptory amendment at 12 Ill. Reg. 13621, effective August 8, 1988; peremptory amendment at 12 Ill. Reg. 19116, effective November 1, 1988; peremptory amendment at 12 Ill. Reg. 20894, effective December 21, 1988; peremptory amendment at 13 Ill. Reg. 228, effective January 11, 1989; peremptory amendment at 13 Ill. Reg. 2160, effective February 13, 1989; amended at 13 Ill. Reg. 3696, effective March 13, 1989; peremptory amendment at 13 Ill. Reg. 15853, effective October 5, 1989; peremptory amendment at 13 Ill. Reg. 16838, effective October 11, 1989; peremptory amendment at 13 Ill. Reg. 17495, effective January 18, 1990; amended at 14 Ill. Reg. 3424, effective February 26, 1990; peremptory amendment at 14 Ill. Reg. 4953, effective March 23, 1990; peremptory amendment at 14 Ill. Reg. 11401, effective July 6, 1990; peremptory amendment at 14 Ill. Reg. 13355, effective August 20, 1990; peremptory amendment at 14 Ill. Reg. 16064, effective September 24, 1990; peremptory amendment at 14 Ill. Reg. 21060, effective May 29, 1991; peremptory amendment at 15 Ill. Reg. 620, effective January 2, 1991; peremptory amendment withdrawn at 15 Ill. Reg. 1574, effective January 2, 1991; peremptory amendment at 15 Ill. Reg. 3117, effective September 3, 1991; peremptory amendment at 15 Ill. Reg. 8714, effective May 29, 1991; amended at 15 Ill. Reg. 8801, effective June 7, 1991; peremptory amendment at 15 Ill. Reg. 13976, effective September 20, 1991; peremptory amendment at 16 Ill. Reg. 1899, effective March 2, 1992; amended at 16 Ill. Reg. 8349, effective May 26, 1992; peremptory amendment at 16 Ill. Reg. 11687, effective July 10, 1992; peremptory amendment at 16 Ill. Reg. 11963, effective July 22, 1992; peremptory amendment at 16 Ill. Reg. 12234, effective July 24, 1992; peremptory amendment at 16 Ill. Reg. 16337, effective October 19, 1992; peremptory amendment at 16 Ill. Reg. 17165, effective October 21, 1992; peremptory amendment at 17 Ill. Reg. 2063, effective February 12, 1993; peremptory amendment at 17 Ill. Reg. 15725, effective September 7, 1993; peremptory amendment at 17 Ill. Reg. 16238, effective September 8, 1993; peremptory amendment at 17 Ill. Reg. 18215, effective October 5, 1993; peremptory amendment at 18 Ill. Reg. 304, effective December 23, 1993; peremptory amendment at 18 Ill. Reg. 2164, effective January 24, 1994; amended at 18 Ill. Reg. 4622, effective March 14, 1994; peremptory amendment at 18 Ill. Reg. 6442, effective April 18, 1994; peremptory amendment at 18 Ill. Reg. 8493, effective May 27, 1994; amended at 18 Ill. Reg. 11489, effective July 7, 1994; peremptory amendment at 18 Ill. Reg. 12546, effective July 29, 1994; peremptory amendment at 18 Ill. Reg. 14475, effective September 7, 1994; amended at 18 Ill. Reg. 14924, effective September 26, 1994; peremptory amendment at 18 Ill. Reg. 15452, effective September 27, 1994; peremptory amendment at 19 Ill. Reg. 1342, effective January 27, 1995; peremptory amendment at 19 Ill. Reg. 4765, effective March 13, 1995; peremptory amendment at 19 Ill. Reg. 7067, effective May 8, 1995; peremptory amendment at 19 Ill. Reg. 14898, effective October 6, 1995.

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

SUBPART C: POULTRY INSPECTION

Section 125.410 Transportation; Sale of Poultry or Poultry Products

- a) The Department incorporates by reference 9 CFR 381.189 through 381.193 (1990); 60 FR 43356, effective September 20, 1995.
- b) Transportation of dead, dying, disabled or diseased poultry and parts of carcasses or poultry that has died otherwise than by slaughter at an official establishment, unless exempt from inspection and transportation requirements as set forth in Section 125.110, shall be in accordance with Section 125.120.
- c) The manner for handling heads and feet of poultry shall be as set forth in the "Meat and Poultry Inspection Manual" as adopted by the Department in Section 125.20.
- d) References in the incorporated language to USDA and PPIA shall mean the Illinois Department of Agriculture and The Meat and Poultry Inspection Act respectively. References to "penalties in Section 11 of the Act" shall mean as set forth in Section 19 of The Meat and Poultry Inspection Act.

(Source: Peremptory amendment at 19 Ill. Reg. 14898, effective October 6, 1995.

DEPARTMENT OF AGRICULTURE
NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

- 1) Heading of Part: Weights and Measures Act
- 2) Code Citation: 8 Ill. Adm. Code 600
- 3) Register Citation to Notice of Proposed Amendments:
19 Ill. Reg. 13121; September 22, 1995
- 4) Date, Time and Location of Public Hearing:
Wednesday, November 1, 1995, 10:00 a.m.
Department of Agriculture
Agriculture Building, State Fairgrounds
Springfield, IL 62794-9281
Telephone: 217/785-5713 Facsimile: 217/785-4505
- 5) As announced in 19 Ill. Reg. 13121, those individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should mail written comments to the attention of Debbie Wakefield at the above address. In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 27, 1995. All comments received will be fully considered by the agency.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of October 3, 1995 through October 9, 1995 and have been scheduled for review by the Committee at its November 14, 1995 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
11/16/95	Department of Insurance, Minimum Standards of Individual Accident and Health Insurance (50 Ill Adm Code 2007)	7/7/95 19 Ill Reg 8886	11/14/95
11/16/95	State Board of Education, Certification (23 Ill Adm Code 25)	5/26/95 19 Ill Reg 7098	11/14/95
11/17/95	Department of Central Management Services, Pay Plan (80 Ill Adm Code 310)	8/18/95 19 Ill Reg 11707	11/14/95
11/17/95	Department of Professional Regulation, Illinois Architecture Practice Act of 1989 (68 Ill Adm Code 1150)	2/10/95 19 Ill Reg 1180	11/14/95
11/17/95	Department of Professional Regulation, Illinois Professional Land Surveyor Act of 1989 (68 Ill Adm Code 1270)	2/10/95 19 Ill Reg 1185	11/14/95
11/17/95	Department of Professional Regulation, The Professional Engineering Practice Act of 1989 (68 Ill Adm Code 1380)	2/10/95 19 Ill Reg 1190	11/14/95
11/17/95	Department of Professional Regulation, The Structural Engineering Licensing Act of 1989 (68 Ill Adm Code 1480)	2/10/95 19 Ill Reg 1195	11/14/95

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

Second Notice Expires	11/19/95	Agency and Rule	Department of Nuclear Safety, Radiation Safety Requirements for Industrial Radiographic Operations (32 Ill Adm Code 350)	Start of First Notice	7/28/95 19 Ill Reg 10966	JCAR Meeting	11/14/95
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PROCLAMATIONS

95-453

ADULT DAY CARE WEEK

Whereas, it has become a nationwide tradition to celebrate National Adult Day Care Week each September in recognition of the thousands of agencies and individuals throughout the country who perform a valuable service for adult citizens who have special needs; and

Whereas, there are 3,000 adult day care centers nationwide, many serving adults age 18 and older and others serving senior citizens -- providing meals, recreation, health maintenance assistance, medication monitoring, therapies, health education, and other medical care and these centers are staffed by concerned professionals who can identify the need for additional services and make appropriate referrals; and

Whereas, adult day care centers provide opportunities for social interaction to individuals who might be confined at home, lonely and isolated without this service option, and these centers help frail adults reach and maintain maximum independence, contentment, and well-being; and

Whereas, adult day care centers offer respite to families who might otherwise provide demanding, continuous care for ill, fragile, and disabled adult members -- 24 hours a day, seven days a week;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 17-23, 1995, as ADULT DAY CARE WEEK in Illinois.

Issued by the Governor September 15, 1995.

Filed by the Secretary of State September 22, 1995.

95-454

AMERICAN BUSINESS WOMEN'S ASSOCIATION DAY

Whereas, on September 22, 1949, Mr. Hilary A. Bufton established the American Business Women's Association (ABWA), recognizing the need for a support organization to help women reach their educational and career goals; and

Whereas, the ABWA has dedicated more than 40 years to women's education and has provided workplace skills and career-development training for more than 545,000 members while awarding some \$43 million in women's scholarships; and

Whereas, the ABWA has been successful in organizing conferences and conventions to allow women an outlet to advance and succeed in the workplace; and

Whereas, members of the ABWA have made significant impacts on the business community and across the country;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 22, 1995, as AMERICAN BUSINESS WOMEN'S ASSOCIATION DAY in Illinois in honor of the accomplishments of the ABWA.

Issued by the Governor September 15, 1995.

Filed by the Secretary of State September 22, 1995.

95-455

CAROLYN MORRIS DAY

Whereas, Mrs. Illinois, 25-year-old Carolyn Morris, an abused child and

battered wife who overcame her situation, founded the Carolyn Morris Foundation for Battered and Abused Women; and

Whereas, she helped organize the first annual celebrity dinner in the Chicago area to benefit the organization; and

Whereas, the benefit will be held September 24, 1995, at Mia Strada Restaurant in Bloomingdale, in which more than 200 concerned citizens will participate; and

Whereas, the foundation hopes to raise close to \$300,000 to aid women in trouble and to bring the issues of the battered and abused before the public eye; and

Whereas, her organization will help others make positive adjustments in their lives; and

Whereas, she has become a symbol to all women who have been humiliated, hurt, and emotionally and physically scarred that there is hope for a new life;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 24, 1995, as CAROLYN MORRIS DAY in Illinois in honor of her courage.

Issued by the Governor September 18, 1995.

Filed by the Secretary of State September 22, 1995.

95-456

GUJARAT DAY

Whereas, Gujarat, India, is located north of Bombay and is one of the largest industrial states in India; and

Whereas, approximately 50 percent of Asian Indians in Illinois are from this part of India; and

Whereas, several American businesses have made the commitment to do business with India, especially in the state of Gujarat; and

Whereas, in order to strengthen the business relationship between Illinois and the state of Gujarat, the Honorable Keshubhir Patel, Chief Minister of Gujarat, will visit Chicago on September 19, 1995; and

Whereas, in honor of this visit, the Indian community, along with the Counsel General of India, will have a luncheon at the Mid-American Club in Chicago;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 19, 1995, as GUJARAT DAY in Illinois in appreciation of Chief Minister Patel's visit to Chicago.

Issued by the Governor September 18, 1995.

Filed by the Secretary of State September 22, 1995.

95-457

MINORITY DEVELOPMENT MONTH

Whereas, Minority Enterprise Development Week is an annual celebration of the contributions and achievements made by minority businesses in Illinois and throughout the United States; and

Whereas, our state's growth and prosperity depend on the full participation of all Illinois citizens; and

Whereas, for the past 13 years, this state has made great advances in increasing the participation of the minority community in state business; and

Whereas, business and professional leaders from across the region are honoring Illinois' outstanding minority business entrepreneurs for 1995;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1995 as MINORITY DEVELOPMENT MONTH in Illinois in recognition of the contributions and achievements of minority entrepreneurs through our state.

Issued by the Governor September 18, 1995.

Filed by the Secretary of State September 22, 1995.

95-458

WOMEN IN CONSTRUCTION WEEK

Whereas, this year marks the 42nd anniversary of the founding of the National Association of Women in Construction (NAWIC); and

Whereas, nearly 10,000 members nationwide contribute their expertise to their communities and to the construction industry;

Whereas, NAWIC is dedicated to furthering the education of women in their chosen careers by providing services and programs; and

Whereas, NAWIC provides scholarships to aid young people in their pursuit of industry careers in architecture, civil engineering, and numerous other fields;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 17-23, 1995, as WOMEN IN CONSTRUCTION WEEK in Illinois.

Issued by the Governor September 18, 1995.

Filed by the Secretary of State September 22, 1995.

95-459

JEWISH POSTCARD WEEK

Whereas, Jewish New Year postcards were created to call attention to Rosh Hashanah, the Jewish New Year, a solemn 10-day period of repentance for those of the Jewish faith; and

Whereas, Jewish New Year postcards convey not only the traditional greeting of the New Year but the atmosphere of the holiday as well; and

Whereas, these postcards have traditionally been shared among friends and family to reflect upon one's deeds the past year and to wish a good new year; and

Whereas, these postcards unite the Jewish faith through symbols such as prayer, the call of the Shofar, and reading from the Scriptures;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 17-23, 1995, as JEWISH POSTCARD WEEK in Illinois.

Issued by the Governor September 19, 1995.

Filed by the Secretary of State September 22, 1995.

95-460

NATIONAL COMMITTEE TO PREVENT CHILD ABUSE DAY

Whereas, the National Committee to Prevent Child Abuse was founded over 20 years ago by Donna J. Stone as an organization committed to prevent child abuse in all its forms and to create a downward trend in child abuse; and

Whereas, NCPA is a volunteer based organization of concerned citizens working with community, state, and national groups to expand and disseminate knowledge about child abuse prevention; and

Whereas, NCPA is a nationally respected organization based in Chicago

that continues to make strides in the advocacy of children's rights, health, and safety; and

Whereas, three chapters of NCPA in Illinois, the Illinois Committee for the Prevention of Child Abuse in Springfield, Child Abuse Prevention and Service Council in Moline, and the Greater Chicago Council, serve our state; and

Whereas, NCPA is supported by diverse groups of people that have significantly contributed to child abuse prevention; and

Whereas, this year, NCPA will present its annual "Our Child Award" and "Special Friend Award" to Brenda Edgar, First Lady, State of Illinois and Chris Zorich, Chicago Bears, respectively;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 29, 1995, as NATIONAL COMMITTEE TO PREVENT CHILD ABUSE DAY in Illinois in honor of its fine accomplishments in the prevention of child abuse across our state.

Issued by the Governor September 19, 1995.

Filed by the Secretary of State September 22, 1995.

95-461

POLISH WOMEN'S ALLIANCE DAYS

Whereas, the Polish Women's Alliance of America was founded May 22, 1998, and serves as a fraternal benefit life insurance society that unites women and men of Polish ancestry in civic, cultural, and social work; and

Whereas, the Polish Women's Alliance is dedicated to preserving and promoting the Polish culture, heritage, language, and traditions; and

Whereas, the Polish Women's Alliance provides scholarships, language, and dance classes for the youth, as well as coordinating volunteer projects, care of the elderly, and relief assistance; and

Whereas, this organization enjoys a membership of more than 10,000 and is headquartered in Illinois; and

Whereas, the Polish Women's Alliance will celebrate their 32nd National Convention from September 23-27, 1995, in Chicago;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 23-27, 1995, as POLISH WOMEN'S ALLIANCE DAYS in Illinois.

Issued by the Governor September 19, 1995.

Filed by the Secretary of State September 22, 1995.

95-462

ILLINOIS DYSLLEXIA MONTH

Whereas, Dyslexia is a learning disability which affects the ability to read, write and organize thoughts; and

Whereas, one million adults and children throughout Illinois, including 15% of all school age children suffer from dyslexia/learning disabilities; and

Whereas, the Illinois Branch of the Orton Dyslexia Society offers professional development classes in multisensory reading and mathematics, tutor referral directories, quarterly newsletters, seminars and conferences to address the educational needs of this population; and

Whereas, these have proven effective to help people deal with and improve their condition;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim

October 1995 as ILLINOIS DYSLLEXIA MONTH in Illinois in honor of their hard work and efforts.

Issued by the Governor September 20, 1995.

Filed by the Secretary of State September 28, 1995.

95-463

OUTDOOR ADVERTISING WEEK

Whereas, the Outdoor Advertising Association of Illinois, Inc., one of the nation's oldest outdoor advertising associations, has been a catalyst in the economic health of Illinois for the past century; and

Whereas, the Outdoor Advertising Association of Illinois, Inc., exhibiting a deep sense of public and social responsibility, has helped convey important public service messages to motorists and pedestrians in the State of Illinois; and

Whereas, the Outdoor Advertising Association of Illinois, Inc. plays an important role in the success of Illinois as member companies promote and protect investments in commerce and industry while infusing money into local communities; and

Whereas, the members of the Outdoor Advertising Association of Illinois, Inc. annually donate more than \$5 million in free advertising space to charitable organizations and community initiatives; and

Whereas, the State of Illinois is home to many advertising agencies, which create memorable outdoor advertising that attracts consumers to purchase goods and services throughout the state; and

Whereas, past and present members of the Outdoor Advertising Association, Inc. will join with advertising industry leaders, city and state leaders and family and friends to celebrate the industry's contribution to the State and nation;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 25 - October 1, 1995, as OUTDOOR ADVERTISING WEEK in Illinois in honor of the efforts and hard work of these entrepreneurs.

Issued by the Governor September 20, 1995.

Filed by the Secretary of State September 28, 1995.

95-464

CHILD AND YOUTH CARE WORKERS WEEK

Whereas, professional child and youth care workers provide, directly or indirectly, for the nurturance, treatment, and support of children and youth in treatment centers, hospitals, institutions, day care programs, community centers, schools, and homes; and

Whereas, they are dedicated to taking an active, responsible role in meeting the regular and special needs of the children they care for; and

Whereas, in Illinois, more than 5,000 child and youth care workers contribute not only to the well-being of their charges, but to the economy and welfare of the entire State of Illinois; and

Whereas, the citizens of Illinois can be made further aware of the accomplishments of these people;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 24-30, 1995, as CHILD AND YOUTH CARE WORKERS WEEK in Illinois in recognition of their Midwest Regional Child and Youth Care Conference taking

place in Illinois.

Issued by the Governor September 25, 1995.

Filed by the Secretary of State September 28, 1995.

95-465

HEALTH INFORMATION MANAGEMENT WEEK

Whereas, the Illinois Health Information Management Association, established in 1953, has more than 1,900 active members in our state; and
Whereas, the association is an affiliate of the American Health Information Management Association and strives to further the common interest of health information managers throughout the state; and

Whereas, association members keep abreast of important, current trends and issues in the healthcare field and take an active role in the protection of patient rights; and

Whereas, the mission of the association is to ensure the integrity of health data and to promote quality through education and innovation in the management of health information;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim November 5-11, 1995, as HEALTH INFORMATION MANAGEMENT WEEK in Illinois.

Issued by the Governor September 25, 1995.

Filed by the Secretary of State September 28, 1995.

95-466

YWCA WEEK WITHOUT VIOLENCE

Whereas, YWCAs in Illinois have provided over one hundred years of continuous service to the women and children of the state; and

Whereas, the YWCA has a long history of empowering women and families, fostering racial justice and preventing violence; and

Whereas, the YWCA seeks to unify and inform people about existing alternatives to violence at YWCAs, schools, community organizations and workplaces; and

Whereas, the YWCA is sponsoring the first annual "YWCA Week Without Violence" in communities across the country which challenges every American to live for one week without perpetrating or participating in violence by finding non-violent ways to deal with anger and resolve conflicts; and

Whereas, each day of the week will focus on a different set of issues relating to violence, including school safety, child protection, domestic violence, and race and hate crimes; and

Whereas, the campaign will give thousands of people in Illinois the opportunity to act against the epidemic proportions of violence in their lives;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 15-21, 1995, as YWCA WEEK WITHOUT VIOLENCE in Illinois in recognition of the desire of the people of Illinois to live their lives without fear of violence.

Issued by the Governor September 27, 1995.

Filed by the Secretary of State September 28, 1995.

95-467

COAL AWARENESS MONTH

Whereas, coal production is Illinois' second-largest industry, providing direct employment for more than 6,700 Illinois citizens as well as related employment for tens of thousands of others; and

Whereas, coal has played a pivotal role in the history and development of Illinois as a vital social, industrial, and economic power; and

Whereas, coal adds to the quality of all of our lives through its contribution to the economy and its use in generating nearly 60 percent of America's electricity; and

Whereas, there is growing statewide interest in energy education as people realize the importance of coal in their everyday lives; and

Whereas, Illinois has been and continues to be a leader in the effort to find and promote ways to burn our vast coal resources without causing harm to the environment and has committed more than \$138 million to these efforts so far, thus deriving an additional \$662 million in federal and private funds;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1995 as COAL AWARENESS MONTH in Illinois.

Issued by the Governor September 27, 1995.

Filed by the Secretary of State September 28, 1995.

95-468

PRINCIPAL'S WEEK

Whereas, the principal is the recognized educational leader of a school; and

Whereas, the principal creates the vision and sets the expectation for a high level of student achievement and faculty performance; and

Whereas, the principal establishes a positive climate for learning and the attainment of educational goals; and

Whereas, the State of Illinois recognizes and salutes the accomplishments, skills, and commitments to excellence of its principals; and

Whereas, the Illinois Principals association, under the leadership of its president, Dr. Phillip Silsbry, will hold its annual statewide Professional Conference this week in Itasca;

Therefore, I, JIM EDGAR, Governor of the State of Illinois, proclaim October 21-27, 1995, as PRINCIPAL'S WEEK in Illinois.

Issued by the Governor August 29, 1995.

Filed by the Secretary of State October 5, 1995.

95-469

CUSTOMER SERVICE WEEK

Whereas, successful businesses are distinguished by their ability to provide excellent customer service and to understand the influence a customer has on a company's prosperity; and

Whereas, the International Customer Service Association (ICSA), the only non-profit organization of its kind, was founded in 1981 in response to a need for proactive customer service management; and

Whereas, with more than 3,200 members internationally, as well as a chapter in Illinois, the ICSA is dedicated to developing and advancing customer service and assists industry professionals in meeting these challenges by offering educational programs, management development opportunities, and interactions among customer service management professionals; and

Whereas, today's high cost of attracting new customers further emphasizes the need to keep existing customers through effective service; and

Whereas, this week has carried widespread support throughout many constituencies as it has been proclaimed on the national level dating back to 1992;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1-7, 1995, as CUSTOMER SERVICE WEEK in Illinois in honor of the individuals who put customers first and those striving to make customer service an integral part of their workplace.

Issued by the Governor September 25, 1995.

Filed by the Secretary of State October 5, 1995.

95-470

GERMAN CARNIVAL DAY

Whereas, on November 11, 1995, at the 11th hour, 11th minute and 11th second, Carnival season officially begins and Prince Emil I and Princess Anna I will be crowned for the 1996 Carnival season; and

Whereas, under the leadership of Joe Matuschka, President, der Rheinischer Verein Von, Chicago will celebrate Carnival as it has for 106 years; and

Whereas, the tradition of Carnival is several hundred years old, dating back to medieval times, and in many areas it is also known as "Fasching", "Fastnacht" or "Mardi Gras;" and

Whereas, the celebration of Carnival is an important way to preserve the rich German tradition and culture in America; and

Whereas, German-Americans, the largest ethnic group in Illinois, have contributed much to the state in all areas including business, science, medicine, education, government, and the arts;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim November 11, 1995, as GERMAN CARNIVAL DAY in Illinois.

Issued by the Governor September 25, 1995.

Filed by the Secretary of State October 5, 1995.

95-471

AMERICAN BICYCLE RACING MONTH

Whereas, American Bicycle Racing is dedicated to the promotion, education and service of the sport of bicycle racing; and

Whereas, by Fourth Quarter 1995, American Bicycle Racing will begin rider licensing in preparation for road racing, criterium, track and off-road events; and

Whereas, clients of American Bicycle Racing include present and past bicycle racers of all ages, and supporting members who share a love of the sport but do not participate; and

Whereas, American Bicycle Racing will enhance, promote and support quality, safe racing with top competitors;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 1995 as AMERICAN BICYCLE RACING MONTH in Illinois and recognize ABR for its efforts to promote bicycle racing.

Issued by the Governor September 27, 1995.

Filed by the Secretary of State October 5, 1995.

95-472

CRIME PREVENTION MONTH

Whereas, the vitality of our nation depends on how safe we keep our homes, neighborhoods and communities, because crime and fear diminish the quality of life for all; and

Whereas, people of all ages must be made aware of what they can do to prevent themselves, their families, neighborhoods and workplaces from being harmed by violence, drugs and other crime; and

Whereas, the personal injury, financial loss and community deterioration resulting from crime are intolerable and need to be addressed by the whole community; and

Whereas, effective crime prevention programs excel because of partnerships among law enforcement, government agencies, civic groups, schools and individuals as they help to rebuild a sense of communal responsibility and shared pride; and

Whereas, crime prevention initiatives are more than self-protection and security--they must promote positive alternatives to delinquency and drugs among young people; and

Whereas, McGruff, the "spokesdog" for the National Crime Prevention Council, has returned to Illinois to remind people that crime prevention is truly everyone's business and we all should "take a bite out of crime;"

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1995 as CRIME PREVENTION MONTH in Illinois in conjunction with the national observance and ask that all citizens, law enforcement personnel, businesses, media, civic groups and public officials make crime prevention a priority all year.

Issued by the Governor September 27, 1995.

Filed by the Secretary of State October 5, 1995.

95-473

FAMILY HEALTH MONTH

Whereas, Illinois family physicians have a history of dedication to our health and well-being and a continued commitment to upgrade the quality of available medical care; and

Whereas, family practice is the specialty that provides training in the treatment of all age groups and organ systems, as well as in obstetrical care which is so needed in the state's many medically underserved areas; and

Whereas, family physicians believe prevention and early diagnosis of healthcare problems provide a better chance for complete cure and recovery and the most timely and cost-effective form of healthcare delivery; and

Whereas, there has been a call to improve the supply of primary care physicians--especially family physicians--to provide the type of comprehensive, preventive care that is necessary in a reformed cost-effective and efficient healthcare system; and

Whereas, there is a shortage of family physicians and other primary care physicians to provide care to the families in Illinois; and

Whereas, the Illinois Academy of Family Physicians is committed to making family physicians available to all citizens of our state to promote the importance of regular checkups and wellness;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim

Filed by the Secretary of State October 5, 1995.

95-476

ILLINOIS RIVER SYSTEM MANAGEMENT MONTH

Whereas, 1995 marks the 100th anniversary of the Illinois State Water Survey and the Steven Forbes Biological Research Station; and

Whereas, 1995 also marks the formation of the Illinois River Partnership through the leadership of Lt. Governor Bob Kustra and the implementation of Illinois' Conservation 2000 initiative; and

Whereas, the Illinois State Water Survey and the Steven Forbes Biological Research Station have made tremendous contributions toward understanding the ecosystem of the Illinois River over the last 100 years; and

Whereas, the creation of the Illinois Department of Natural Resources and the Illinois River Partnership, and the implementation of Conservation 2000 are important milestones in efforts to protect the resources of the Illinois River; and

Whereas, the 1995 Governor's Conference on the Management of the Illinois River System will be October 10-11, 1995, at the Hotel Pere Marquette in Peoria;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1995 as ILLINOIS RIVER SYSTEM MANAGEMENT MONTH in Illinois and urge all citizens to recognize the economic, recreational, social and environmental responsibilities we have to conserve and properly utilize the resources of the Illinois River Basin.

Issued by the Governor September 28, 1995.

Filed by the Secretary of State October 5, 1995.

95-477

PEDIATRIC BRAIN INJURY AWARENESS MONTH

Whereas, an alarming number of Illinois children are suffering from brain injuries; and

Whereas, brain-injured children and their families need advocacy for recognition of educational, therapeutic, and recreational needs; and

Whereas, the Illinois Pediatric Brain Injury Resource Center (IPBIRC) was created to educate and inform the public on the increasing number of brain injuries; and

Whereas, IPBIRC was organized by parents of brain-injured children and by concerned professionals dedicated to improving the quality of life of those children, as well as giving them the opportunity and the encouragement necessary to help them achieve their potential;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1995 as PEDIATRIC BRAIN INJURY AWARENESS MONTH in Illinois.

Issued by the Governor September 28, 1995.

Filed by the Secretary of State October 5, 1995.

95-478

POTAWATOMI TRAIL OF DEATH DAY

Whereas, "The Trail of Death" is an historic trail that commemorates the hardships suffered by the Potawatomi Indians who were forcibly removed from

October 1995 as FAMILY HEALTH MONTH in Illinois.

Issued by the Governor September 27, 1995.

Filed by the Secretary of State October 5, 1995.

95-474

ALLIED HEALTH PROFESSIONS WEEK

Whereas, our country is in the middle of a health care revolution that has changed how our health care needs are met and how we will pay for this care; and

Whereas, efforts to control spiraling health care costs have led to lower hospital occupancy rates, shorter lengths of stay in hospitals, greater use of outpatient services and other non-traditional health care services; and

Whereas, the emphasis on cost effectiveness and the expansion of technology has given new meaning and direction to health care professions; and

Whereas, allied health care professionals have met the challenge of the ever-evolving health care system, while continuing to provide safe, conscientious, dependable care for all consumers at affordable prices; and

Whereas, allied health professionals are efficient, knowledgeable providers who are assuming leadership roles in the management and delivery of patient care services;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 8-15, 1995, as ALLIED HEALTH PROFESSIONS WEEK in Illinois.

Issued by the Governor September 28, 1995.

Filed by the Secretary of State October 5, 1995.

95-475

CHILD HEALTH MONTH

Whereas, members of the Child Health Month Partnership, joined by corporations, other organizations and religious institutions, are organizing dozens of activities and events to take place during October to raise awareness about such topics as preschool immunization, childhood lead poisoning, prenatal care, violence prevention, nutrition, physical fitness, substance abuse, and injury prevention; and

Whereas, good health provides the foundation for a child's proper emotional, intellectual and physical development; and

Whereas, many precautions can be taken in order to provide proper care such as prenatal care, as well as checkups, proper nutrition and immunizations to help guard against disease in very young children; and

Whereas, education programs can provide young people with information about healthy life skills and choices while trying to prevent children from becoming exposed to health risks; and

Whereas, many young people are at risk for sexually transmitted diseases including HIV; and

Whereas, many children and adolescents remain unable to obtain basic child care; and

Whereas, children and adolescents need healthy families and supportive communities to thrive;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1995 as CHILD HEALTH MONTH in Illinois.

Issued by the Governor September 28, 1995.

Northern Indiana to Osawatomi, Kansas; and

Whereas, along this trail, many Indians died because of inhumane conditions, a lack of food and water and disease; and

Whereas, the National Daughters of the American Revolution will be dedicating a historical plaque marking the September 28, 1995, overnight campsite on the west bank of the Sangamon River, located on the east side of Springfield; and

Whereas, this proclamation joins others in the Indiana, Kansas, and Illinois legislatures declaring the Trail of Death a Regional Historic Trail;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 28, 1995, as POTAWATOMI TRAIL OF DEATH DAY in Illinois in honor of the Potawatomi Indians, their courage, and in commemoration of the hardships they suffered.

Issued by the Governor September 28, 1995.

Filed by the Secretary of State October 5, 1995.

95-479

SINGLE PARENTS DAY

Whereas, being a working single parent is a contradicting, yet rewarding task for the parent and child or children in a family; and

Whereas, single men and women have to work a full shift at their place of employment, then prepare themselves for the next shift of work at home as single parents; and

Whereas, single parents have to go through the endless struggle of trying to be both mother and father to their child or children; and

Whereas, Mother's Day and Father's Day do not provide enough recognition for these parents;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 3, 1995, as SINGLE PARENTS DAY in Illinois in honor of the men and women who dedicate their lives to their children and their prosperity.

Issued by the Governor September 28, 1995.

Filed by the Secretary of State October 5, 1995.

95-480

FOLK ART MONTH

Whereas, the Folk Art Society of America is a national, non-profit organization formed in 1987; and

Whereas, the Folk Art Society of America has declared October 1995 as National Folk Art Month to create a better understanding of and appreciation for folk art, folk artists and their environments; and

Whereas, this year's theme for national Folk Art Month is "Folk Art Makes a Difference" in honor of the many talented and active folk artists who celebrate and extol the richness and diversity of the people of our great state and nation; and

Whereas, the Tarble Arts Center will present the exhibition, "Folk Arts of Mexico", selected from the University Museum collection of Southern Illinois University--Edwardsville;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1995 as FOLK ART MONTH in Illinois.

Issued by the Governor September 29, 1995.

Filed by the Secretary of State October 5, 1995.

95-481

RESIDENTS' RIGHTS WEEK

Whereas, the Illinois Retired Teachers Association Foundation is sponsoring the Project Advocate Ombudsman Program which protects the rights of older residents in long term care facilities; and

Whereas, the National Citizens' Coalition for Nursing Home Reform has designated October 1-7 as National Residents' Rights Week; and

Whereas, the objective of this week is to increase the awareness of the rights of residents; and

Whereas, it is right and just to honor those Illinois citizens, residents, families, ombudsmen, facility staff, facility management, and others, who work together to assure a quality of care and a quality of life for long term care facility residents;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1-7, 1995 as RESIDENTS' RIGHTS WEEK in Illinois.

Issued by the Governor September 29, 1995.

Filed by the Secretary of State October 5, 1995.

95-482

TEMPORARY HELP WEEK

Whereas, the temporary help industry is a major contributor to a strong U.S. economy; and

Whereas, the temporary help industry provides millions of people with diversified, flexible employment and job training; and

Whereas, the temporary help industry provided more than 1.6 million jobs daily in 1993; and

Whereas, the temporary help industry was responsible for a payroll that was approximately \$20 billion in 1993; and

Whereas, temporary help companies provide our state's businesses with efficient, qualified people to solve temporary staff shortages; and

Whereas, this immediacy in solving staff shortages is so important that nine out of 10 companies, ranging from small local businesses to major corporations, use temporary help services for their additional staffing needs;

and Whereas, the temporary help industry provides tens of thousands of full-time jobs by acting as a bridge to those jobs;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1-7, 1995, as TEMPORARY HELP WEEK in Illinois.

Issued by the Governor September 29, 1995.

Filed by the Secretary of State October 5, 1995.

95-483

ARTS WEEK

Whereas, the arts in all forms are treasures that bring joy to everyone; and

Whereas, our lives are enriched by the art that surrounds us in our everyday environments, the art that is part of our history, and the art of

far-away places that we bring home in our hearts and minds; and

Whereas, the arts in Illinois deserve recognition and support so they may continue to flourish in abundant variety; and

Whereas, the Illinois Arts Council and the National Endowment for the Arts are two organizations that play a vital role in bringing the arts to our citizenry; and

Whereas, central to that partnership is the shared belief that freedom of artistic expression must remain unfettered by government interference in its content;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 22-28, 1995, as ARTS WEEK in Illinois.

Issued by the Governor October 2, 1995.

Filed by the Secretary of State October 5, 1995.

95-484

CHRISTOPHER COLUMBUS PARADE DAY

Whereas, Christopher Columbus and other distinguished Italians have played a significant role in the growth of American civilization; and

Whereas, the Italian-American community has preserved their rich heritage, language and traditions; and

Whereas, the Italian-American community has contributed greatly to Illinois in all areas including education, business, science, medicine, the arts, sports, entertainment and government; and

Whereas, the Joint Civic Committee of Italian-Americans will celebrate October 9, 1995, with the 43rd Annual Christopher Columbus Day Parade;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 9, 1995, as CHRISTOPHER COLUMBUS PARADE DAY in Illinois.

Issued by the Governor October 2, 1995.

Filed by the Secretary of State October 5, 1995.

95-485

MT. ZION BRAVES BRONCO BASEBALL TEAM MONTH

Whereas, the Mt. Zion Braves Bronco Baseball Team finished the 1995 baseball season posting a 38-4 record while placing 5th worldwide in the Bronco Baseball World Series held in Monterey, California on August 11-13, 1995; and

Whereas, this commendable finish reflects the team's competition against 25,000 Bronco teams worldwide; and

Whereas, the team represented 14 states from the North region of the United States; and

Whereas, the players on the team consisted of Casey Anderson, Quinn Bagley, Zach Birkey, Sean Brewer, Justin Cox, Andy Hogan, Nathan Holden, Matt McCollom, Bryce Overlot, Neil Plank, Jason Pullen, Michael Sams, and Chad Watson; and

Whereas, the team leadership consisted of Jeff Sams, Coach; Mark McCollom, Assistant Coach; and Dave Brewer, Business Manager; and

Whereas, these players and coaches represented the State of Illinois with much pride and sportsmanship while interacting with others across the globe; and

Whereas, this extraordinary accomplishment should be commemorated, I dedicate a month to honor them and their success;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1995 as MT. ZION BRAVES BRONCO BASEBALL TEAM MONTH in Illinois in honor of their valiant effort and achievements.

Issued by the Governor October 2, 1995.

Filed by the Secretary of State October 5, 1995.

95-486

OFF THE STREET CLUB DAY

Whereas, Off The Street Club provides an alternative to street gangs and violence for young people in Chicago's West Garfield Park; and

Whereas, Off The Street Club offers educational, recreational, and athletic activities and a safe haven for young people; and

Whereas, Off The Street Club is dedicated to making a difference in the lives of young people; and

Whereas, the 94th Annual Off The Street Club Christmas Party will be Tuesday, December 13, 1995;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim December 13, 1995, as OFF THE STREET CLUB DAY in Illinois.

Issued by the Governor October 2, 1995.

Filed by the Secretary of State October 5, 1995.

95-487

NATURAL DISASTER AWARENESS DAY

Whereas, the United Nations has declared the decade of the 1990s as the International Decade for National Disaster Reduction; and

Whereas, Congress has declared the second Wednesday in October as Natural Disaster Awareness Day; and

Whereas, natural disasters cannot be prevented, but they can be reduced in effect through well-organized public education and awareness, risk assessment and mitigation as recently set forth in the National Mitigation Strategy "Partnerships for Building Safer Communities;" and

Whereas, citizens of Illinois are at risk to feel the devastating effects of natural disasters such as earthquakes, floods, tornadoes and winter storms; and

Whereas, the Illinois Emergency Management Agency, local ESDAs, and chapters of the American Red Cross throughout Illinois will unite efforts to promote the Family Protection Program by encouraging families to become more self-reliant in addressing their basic needs immediately following natural disasters;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 11, 1995, as NATURAL DISASTER AWARENESS DAY in Illinois and urge all citizens to become familiar with the hazards of natural disasters and to take precautions to insure safety at home and in the work place.

Issued by the Governor October 4, 1995.

Filed by the Secretary of State October 5, 1995.

Introducing

ISSUES INDEX

Beginning in this issue (#42) of the *Illinois Register*, the ISSUES INDEX will be published.

The ISSUES INDEX supplements the most recently published quarterly Cumulative Index (CI) and Sections Affected Index (SAI) (October 13, 1995, Vol. 19, Issue #41). The annual CI and SAI will be published January 12, 1996 (Vol. 20, Issue #2).

Rules are listed by Title, Part and Issue Numbers. The ISSUES INDEX appears at the end of each issue of the *Illinois Register*.

Inquiries about the ISSUES INDEX may be directed to the Administrative Code Division at 217-782-7017 or the Internet address: jnatale@ccgate.sos.state.il.us

Rules acted upon during the quarter of October 1 through December 31, 1995 are listed in the Issues Index by Title number, Part number and Issue number. For example, 44 Ill. Adm. Code 655 published in Issue 41 will be listed as 44-655-29. This Issues Index supplements the Sections Affected and Cumulative Indexes published in the October 13, 1995 Illinois Register (Issue 41). Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-7017.

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The following information was obtained from the records of the Department of the Interior, Bureau of Land Management, for the year ending December 31, 1964.

The total number of acres of land owned by the United States is approximately 1,000,000,000 acres.

The total number of acres of land owned by the State of California is approximately 100,000,000 acres.

The total number of acres of land owned by the County of Los Angeles is approximately 10,000,000 acres.

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THE CITY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS
BUREAU OF STREET LIGHTING
1964

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